

PROCEEDINGS

INTERNATIONAL CONFERENCE

on
Combating Human Trafficking
with
Special Reference to Women and Children

13th - 15th February, 2015



Campus Law Centre

University of Delhi

Delhi-110007

(INDIA)

<http://clc.du.ac.in>

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ISBN : 978-93-5254-055-6

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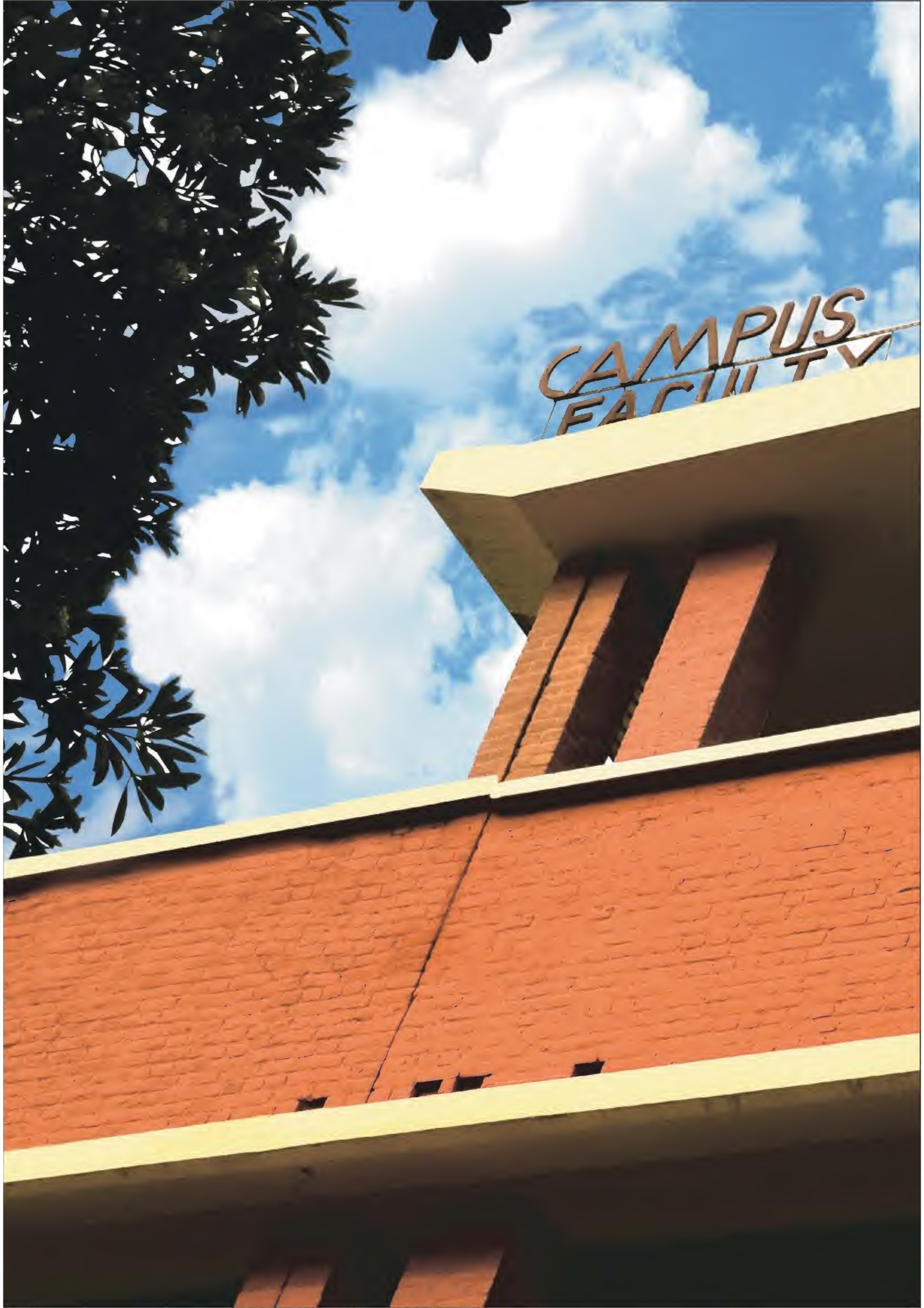
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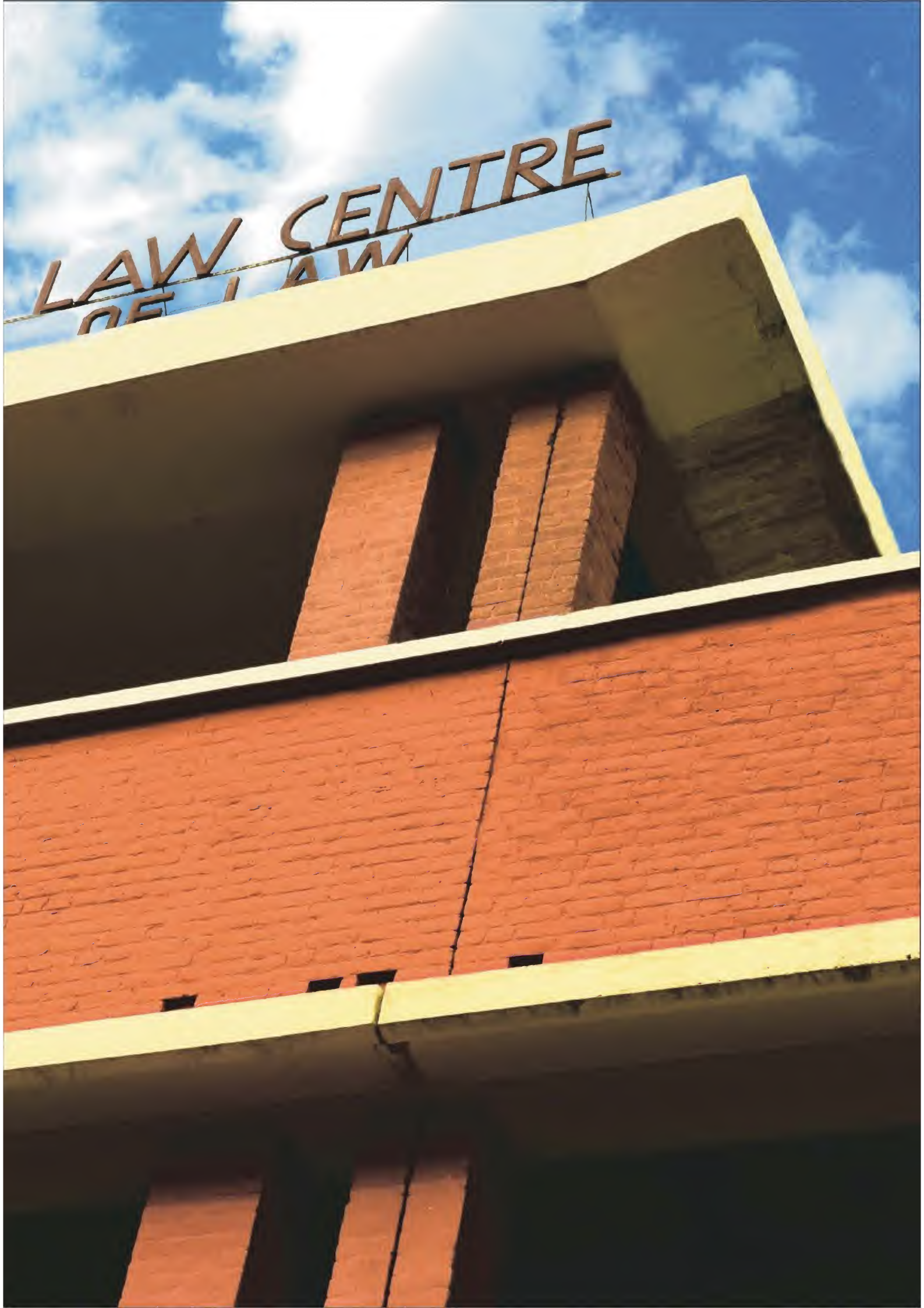
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CONTENTS

	Page
1. From the Desk of Professor-in-Charge & Conference Director	3
2. Sponsor's Note	7
3. Delegates Column	8
4. Inaugural Session	14
Welcome and Introductory Remarks	15
Professor (Dr.) Usha Tandon Professor-in-Charge, CLC and Conference Director	
Keynote Address	17
Ms. Kim Haing, President, Korean Institute for Gender Equality, Promotion and Education	
Inaugural Address	21
Hon'ble Mr. Justice K.G. Balakrishnan Chairperson, National Human Rights Commission, New Delhi	
Vote of Thanks	25
Professor (Dr.) P.S. Lathwal Professor, CLC	
5. Valedictory Session	26
Welcome Address and Closing Remarks	27
Professor (Dr.) Usha Tandon Professor-in-Charge, CLC and Conference Director	
Address by Guest of Honour	30
Mr. Mohan Parasaran Senior Advocate, Formerly Solicitor General of India	
Address by Guest of Honour	33
Professor (Dr.) Donald K. Anton, Professor, Griffith University Law School, Australia	



Address by Guest of Honour Hon'ble Mr. Justice Pradeep Nandrajog Judge, High Court of Delhi	36
Valedictory Address by Chief Guest Hon'ble Mr. Justice Arjan Kumar Sikri Judge, Supreme Court of India	41
Vote of Thanks Professor (Dr.) S.C. Raina Professor, CLC	50
6. Welcome Dinner	51
7. Technical Sessions	52
Technical Session- I Human Trafficking: Definition, Causes & Effects	53
Technical Session- II Forms of Human Trafficking	57
Technical Session- III International Conventions Pertaining to Human Trafficking	61
Technical Session- IV Regional Institutional Legal Framework	64
Technical Session- V Comparative / Domestic Human Trafficking Law	70
Technical Session- VI Trafficking, Trade and Migration	76
Technical Session- VII Religious, Traditional Practices and Ritual Servitude	81
Technical Session- VIII Role of NGO's, Civil Societies, Administrative Machineries, and Police in Combating Human Trafficking	87
Technical Session- IX Rehabilitation of Trafficked Victims: Challenges	92
8. Summary of Discussions	98
9. Cultural Event	105
10. List of Participants	106
11. Organising Committee	110
12. Program Details	113
13. Glimpses of the Conference	116

From the Desk of Professor-in-Charge & Conference Director



It is with great pleasure that I present the proceedings of 3 day International Conference on “Combating Human Trafficking with Special Reference to Women and Children” held at CLC from 13th Feb. to 15 Feb, 2015, before the esteemed readers.

The publication contains, *inter alia*, the reporting of main arguments thrown by the presenters in various Technical Sessions, discussions in the form of questions- answers, observations by Hon’ble Chairpersons of Technical Sessions, prestigious addresses delivered at the Inaugural Session, Valedictory Session and Summary of Discussions. The purpose of publication is to widely disseminate the outcome of proceedings, which can also be browsed at <http://clc.du.ac.in>. The various views expressed by Hon’ble Guests, Hon’ble Chairpersons and Co-Chairpersons, presenters and participants are collectively referred, hereinafter, as views of ‘delegates’.

The delegates acknowledged with regrets that inspite of trafficking being recognized as a human rights violation nearly sixty years ago in the Universal Declaration Of Human Rights and inspite of widespread steps taken since then, it has rather than being controlled, has grown by leaps and bounds. In this context, they discussed various forms in which the



menace of human trafficking is being practiced and opined that the better solution to this malady appears to be in prevention rather than cure. So, there was unanimity among delegates that prevention of human trafficking is an important element of combating this menace. The human trafficking can be prevented by eradicating poverty, unemployment; investing in education of masses; motivating people for having small family and economic stability etc.

The International legal framework and national laws of various countries on combating human trafficking were critically analyzed. While examining Indian laws, it was argued that The Immoral Traffic Prevention Act, 1956 neither recognizes “trafficking in person” as specific and separate crime, nor deals with prevention of prostitution or trafficking. The delegates noted that though it penalises ‘sexual exploitation’ or abuse of persons for ‘commercial purposes’, however, the terms ‘sexual exploitation’ or ‘commercial purposes’ are not defined in the Act. Thus, they observed that the ITPA does not specifically define trafficking and traffickers. Moreover, Section 10A of the ITPA treats the female victims of trafficking as ‘offenders’ who need correction in a detention centre. The latest Criminal Law (Amendment) Act, 2013 which has inserted a new Section 370A “criminalizing trafficking and exploitation of trafficked person”, was also examined and it was argued that even after this Amendment there is no particular definition of trafficking. Further, the exploitation of trafficked person as stated in Section 370A covers only sexual exploitation and not other forms of exploitation.

While probing the anti-trafficking laws of Nigeria, it was asserted that there is a need to broaden the understanding of the mechanisms of border crossing and expand conceptual frameworks to incorporate internal child trafficking in Nigeria. Weak legislation in Nigeria has developed a culture of impunity on the part of the traffickers as they find it very lucrative to remain in the trade and pay fine anytime they are caught. The Conference found that the Nigerian Penal Codes and NAPTIP Act do not have adequate provisions for the protection of victims and or witnesses. Therefore the need to review the anti-trafficking laws particularly against the backdrop of Nigeria’s compromised rule of law was felt and also an imperative need for the harmonization of Nigerian legislation with international standards was



highlighted. Similarly the anti-trafficking laws of South Pacific, Costa Rica, Australia, Indonesia, Egypt, and Nepal etc were also examined.

While analyzing the relevant laws of various countries, delegates unanimously lamented the non-implementation of laws. One of the reasons for the improper implementation of laws was found to be the existence of scattered laws addressing the problem of human trafficking in different perspectives, making proper investigation and prosecution of offenders a difficult task for the legal machinery. Hence, the need for better coordination and cohesiveness of existing laws was argued. Further, corruption among law enforcement agencies was also identified as another major cause for non-implementation of anti-trafficking laws. It was emphasised that such a large scale and systematic endeavour of enslaving so many individuals cannot take place without the involvement of law enforcing agencies. The delegates regretted that a few morally corrupt law enforcement officers act in concert with these traffickers, veiling them from law and covertly encouraging their activities.

Rehabilitation of the victims of human trafficking attracted serious attention of the delegates. The various problems faced by the victims of human trafficking were highlighted which included physical and psychological health issues which mostly arise from the inhuman living conditions, poor sanitation, inadequate nutrition, and poor hygiene, physical and emotional attacks from the traffickers, dangerous workplace conditions and general lack of quality healthcare. It was argued that the victims who have been subjected to traumatic or abusive experiences must be given psychological support which may include general counselling and trauma therapy.

In the Indian context, a comprehensive, gender sensitive, right based, legislation covering all aspects of human trafficking along with a uniform national policy, mechanism and clear guide lines for proper coordination and cooperation among various States and Union agencies engaged in dealing with the cases of human trafficking was recommended by the delegates.



As the Professor-In-Charge of CLC, I take pride in mentioning that this international conference was another milestone in the history of CLC for its wider participation of delegates as well as the quality of papers presented by them. The delegates represented 14 countries and 11 States of India. The global participation was from USA, UK, Australia, South Korea, Egypt, Austria, Bolivia, Indonesia, Nigeria, Nepal, Fiji, Iran, Afghanistan and Bangladesh. The success of any Conference, apart from good theme and papers, requires financial support without which it is impossible to hold a conference at such a scale. I express my gratitude to Mr. Mohan Parasaran, Senior Advocate, Supreme Court of India and formerly Solicitor General of India for generously sponsoring this event.

I am pleased to mention that we have already started the work for publication of selected papers presented at the Conference in the form of a book. I wind up my address by reproducing a quote, which I found in one of the papers of the Conference, which not only beautifully sums up the ugly face of humanity but also exhorts us for its eradication:

“ People were created to be loved,
Things were created to be used,
The reason why the world is in chaos is that
Things are being loved and people are being used.”

A handwritten signature in black ink, appearing to read 'Usha Tandon'.

Usha Tandon

23rd June, 2015



Sponsor's Note

MOHAN PARASARAN

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I was pleased to sponsor some of the events of the international conference organized by CLC in the month of February, 2015. I hope that the Welcome Dinner hosted to honour the delegates and dignitaries of the Conference was well enjoyed by them. I congratulate CLC for successfully providing the international platform to various stakeholders, for a serious discourse in combating the menace of human trafficking. It is highly commendable that scholars from various countries of the world representing almost all continents participated and deliberated on various facets of this problem. I hope, the churning of ideas in this 3 day conference will bring out some module to be tested and implemented. When I participated at the Valedictory Session, I was happy to listen to Professor Don Anton from Griffith University Law School, Australia that, as a follow up to the Conference, he proposes to create a virtual network of scholars in combating human trafficking and will help subscribe interested participants to a listserv at Griffith. The outcome of this Conference should be widely disseminated and a copy of the proceedings should be presented to the concerned statutory bodies. I was impressed with the enthusiastic participation of the dedicated faculty along with energetic students and supportive staff of the Campus Law Centre in making this conference a success. I reiterate that, I will always support CLC and it will not lag behind other international law schools of repute which have sponsors in the form of their Alumni.

I wish CLC all the best for its future endeavours.

Mohan Parasaran



Delegates' Column



The conference was well organized, equally well attended with opportunity for networking. The quality of many of the papers presented was of international standard. Some will require further attention. Overall, it is my honest opinion that the objective of the conference was largely attained. I benefited a lot and I am glad I attended. I am almost certain that other participants will have similar views. Given the opportunity I will attend over and over again. However, it will be necessary in future to increase the time for session discussions. I congratulate the organizers for doing a great job.

Dr. (Mrs) Erimma Gloria Orie

Lecturer School of Law

National Open University of Nigeria

Lagos-Nigeria



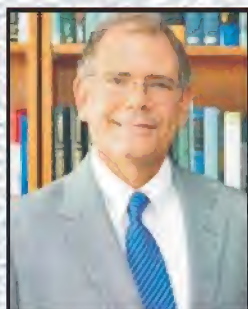
CAMPUS LAW CENTRE of University of Delhi did the job very satisfactorily by organizing the “International Conference on Combating Human Trafficking: with Special Reference to Women and Children”. The conference covers all the aspects of human trafficking by including versatile scholars. It was a big opportunity to hear the situations of human trafficking of different countries of the world and how they are fighting against it. It was a splendid experience as well as opportunity for me to share the views and opinions with the prominent intellectuals and professionals of the field. At last, I want to congratulate ‘CAMPUS LAW CENTRE’ for effectively arranging the conference and at the same time I want to have the privilege to convey my thanks to give the opportunity to be a part of it.

Farjana Yesmin

Lecturer, Department of Law

University of Chittagong

Chittagong, Bangladesh



I am grateful for this opportunity and I want to thank Professor Tandon again for inviting me. I also want to thank all the many wonderful organisers, including the dedicated students who have been so helpful. All of them have worked so hard to bring off such a spectacularly successful event. My hat is off to all of you.

Professor Donald Anton

Griffith University Law School,
Australia



I express my greatest appreciation to Professor Usha Tandon for inviting me to such a honorable and meticulously planned conference. It is my honor to be invited to this 'International Conference on Combating Human Trafficking with Special Reference to Women and Children'. My deepest respect to all of scholarly achievements of delegates, and I would like to propose a solidarity for all of us to achieve the same objective.

Ms Kim Haing

*President, President,
Korean Institute for Gender Equality, Promotion and
Education
South Korea*



It has been an eye-opener about what are the main issues related to combating of human trafficking. The conference was an excellent source of knowledge and learning for me as it provided a great platform to interact with the conference members and delegates. The quality of the speakers and papers were excellent. It was very well organized conference. I really appreciate CLC's team effort for hosting such a wonderful and successful international conference.

Ms. Nidhi Mutreja

*Assistant Professor
Vivekananda Law School
Vivekananda Institute of Professional Studies
New Delhi, India*



The three days (13-15 Feb. 2015) intellectually stimulating conference which brought together people from around the world helped us contemplate and understand different contextual issues internationally. This conference also provided me with an excellent platform to present my paper on “Bride Trafficking in North India: A Socio Legal Study, the valuable interventions of the judges on panel and important questions and suggestions of delegates and participants also helped me refine and add new dimensions to my work. Also, the conference was structured and organised exceedingly well. Thank you for hosting such a wonderful and successful international conference and thank you for making me a part of it.

Garima Singh

Assistant Professor (Political Science)

Vivekananda Institute of Professional Studies

New Delhi

India



The International Conference on “Combating Human Trafficking: With Special Reference to Women and Children” organised by Campus Law Centre, University of Delhi was a very well-planned and thought-provoking. It stimulated us to think beyond the existing Trafficking is a society-created problem by ill-minded individuals so the solution also demands interference by the society, along with the stringent implementation of the legislation.

In order to make a sophisticated and different society, we all need to raise awareness and educate people so that it could be regulated since individuals are caught in such vicious circle of traffickers due to their ignorance. We need not forget that dignity and justice for each individual is mandatory for the sake of humanity.

Pooja Gopal

Ph.D Research Scholar

Centre for Canadian, US & Latin American Studies (CCUS&LAS)

School of International Studies

Jawaharlal Nehru University

Delhi



I feel privileged to attend the conference as it was a great and enriching experience. Various learned people from different fields expressed their scholarly views on the subject. Not only various aspects and types of human trafficking were discussed in detail by various speakers but some valuable suggestions were given by them for eradicating the problem of human trafficking both at national as well as international level. In the end I would like to appreciate the work of the organizing team who have treated the participants with full hospitability. And last but not the least the efforts of the students need be appreciated, as they have done hard work to make this Conference successful under the guidance of Dr Usha Tandon, who was instrumental in making the conference tremendously successful.

Reena Gupta

Adjunct Faculty

*National Institute of Criminology and Forensic Institute
Rohini and Guest Faculty at Guru Gobind Singh University*

Dwarka, Delhi

India



The conference organized by the Campus Law Center was a fantastic confluence of many synergies, ideas and research on the critical issue of combating human trafficking. Eminent scholars, activists and social workers exchanged their views and experiences on themes as diverse as bride trafficking in Haryana, offering of girl child as recompense in dispute resolution in south Pacific islands and on the potential of international instruments. The conference ended with a renewed commitment to continue the efforts and maintain the momentum against the scourge of human slavery.

Niharika Bahl

Independent law researcher and Guest Faculty

Campus Law Centre

University of Delhi, India



The international conference on “Combating Human Trafficking with Special Reference to Women and Children” organised by Campus Law Centre on 13th-15th February, 2015 was an astounding conference. The Campus Law Centre under the aegis and supervision of Dr. Usha Tandon by arranging such a conference has really pricked the minds of the people and has compelled them to contemplate on such a grim issue. The best part was that being an international conference we were enlightened on not only our domestic laws but also laws abroad i.e. international laws as trafficking is a global issue and it is affecting not only people in India but even overseas. We were enriched on what steps countries abroad are taking to curb this mounting up issues. They could share their experience with the august gathering on this bleak and gloomy issue. The best part was participants were really taking the conference seriously as there were lot of queries which were raised in this conference and we could hear the solutions also on the queries raised, thus could augment our knowledge. We must say that the conference was a huge success and had achieved the purpose for which it was organised.

Dr. Shivani Goswami

Associate Professor

School of Law and Legal Studies,

GGs IP University

New Delhi, India



The conference on “Combating Human Trafficking” reflected a dynamism in bringing out the ‘best’ in every speakers effort to make a mark at the conference. It gave out some differential viewpoints opinionated and debated both by the speaker and the audience. A meticulously planned event combined endeavors of all the participants, students and the judges explicitly stating the rationale and objective of the conference. The participants got a sense of the conference which it had intended to achieve both for educating and sensitizing on the causes and concerns with special reference to women and children. It has met with a colossal success with the varied participants from various countries exchanging views and laying foundations for further work to be carried on in tune with the current issues. Those in the field and outside got a fair share on various issues spoken either as a participant or as a reflective audience. All would be thankful to Professor Usha Tandon for bringing out such meticulous conferences, which not only ensures an enthusiastic



participation but events accompanied by relaxed exchanges of conversations which helps the bonding of International and Indian eminent speakers.

Dr. Kavita Solanki

Associate Professor

School of Law and Legal Studies,

GGSIU University

New Delhi, India



This conference was really good platform to learn multitudinous information and facts on the different forms of trafficking burning issue. It has been a great professional rewarding experience. I was grateful to be part of this conference. Through this conference, I met different countries people like as professors, researchers, and experts specifically working on anti-trafficking projects. This conference provided me opportunity to know about several legal legislations of International, Regional, and National on the trafficking and its related counterparts. Added to this, I got to know about statistics of trafficking incidences of different countries and governmental interventional measures and strategies to curb this social evil. The paper presentations of the conference were very much informational.

I would to like to thank you Prof. Usha Tandon ma'am to organize an international conference on this real and serious problem of the today's world. I congratulate ma'am to organize an international conference on anti-human trafficking issue. I wish you to organize many more conferences on the real problems in the future. Finally yet importantly, I would to like to thank all the Chairpersons and Co-Chairpersons for giving valuable suggestions to all the presenters of the conference

Rashi

PhD Research Scholar

Department of Social Work

Delhi School of Social Work

University of Delhi

India

Inaugural Session



Welcome Address and Introductory Remarks

Professor (Dr.) Usha Tandon
*Professor-in-Charge &
Conference Director*

Hon'ble Mr. Justice K.G. Balakrishnan, Chairperson, National Human Rights Commission, Ms. King Haing, President, Korean Institute of Gender Equality, Promotion and Education, Professor P.S. Lathwal, conference delegates, distinguished colleagues and dear students, I am extremely delighted to welcome you all on the Inaugural function of this 3 day International Conference on "Combating Human Trafficking with Special Reference to Women and Children".

I feel honoured to welcome Hon'ble Mr. Justice K.G. Balakrishnan. As the harbinger of NHRC, he has committed himself to the cause of protection and promotion of human rights. As a visionary, he called upon the Media also to play an important role not only to surface the cases of human rights violations, but also in generating awareness among masses of the nation. Before joining NHRC, he retired as Chief Justice of India in 2010 after serving a long period of three years as CJI. During his ten years tenure in the Supreme Court, he delivered several landmark judgments which include making mid-day meal programme in School a statutory requirement, unconstitutionality of forcible narco-analysis, or brain-mapping tests by the investigating agencies.

I am glad to welcome Ms Kim Haing. Ms Kim is currently working as a president of KIGEPE, which stands for Korean Institution for Gender Equality Promotion and Education.

KIGEPE is a public institution, which is under Ministry of Gender Equality and Family of Korea and is in charge of educating public officials about gender equality, education,

sexual assault, sexual harassment, prostitution, and domestic violence. Before joining KIGEPE, she was the first spokesperson for president madam Geun-hye Park in 2013. In various mails which I exchanged with Ms Kim, I personally felt her deep interest in participating in this conference.

Friends, as you know that the topic of the conference relates to a very burning issue facing the nations across the world as well the humanity. Combating human trafficking is not a easy nut to crack as various issues relating to this evil need to be seriously thought out and deliberated upon. The Campus Law Centre of Delhi University feels proud to provide a platform for a serious discourse on this issue. I welcome all delegates, especially the foreign delegates, who have come here, from almost all continents, to contribute to the eradication of this menace.

In the Introductory Remarks, as the Director of the Conference, I would like to share two things with the delegates and participants. First, we have divided the Technical Sessions into nine Sessions on the basis of various sub-themes of the Conference. You will find in the Souvenir that, one Session contains five to six papers for presentation. However, all papers may not strictly be falling under the theme of the Session. At the time of arranging papers under the subthemes, we found that some themes are having larger number of papers than others, but still cannot be put under two full fledged Sessions. Similarly, some other themes attracted high quality papers, but the number of papers was not very large. To equalize the number of papers and time allotment for various Technical Sessions, we have to sacrifice a bit on the specifications. In any case, the papers in those Sessions are in the overall broader theme of the Conference.

Second, the sensible and successful conduct of the Conference requires that the presentation of papers in each session should leave some time for the 'question-answer' to open the floor for all participants. If you see in the programme schedule the total number of papers and the total time allotted to one Technical Session, then you will find that one participant will get almost 10-15 minutes to present the papers. I request all the presenters, not to read their papers, but to throw their line of arguments, thoughts, in these 15 minutes, which can be deliberated and discussed in the open hour discussions. I had already discussed this point with our Hon'ble Chairpersons, and they had, gratefully, endorsed my view. I hope you will all cooperate in this regard. With this, I wish you lots of heated but meaningful discussions and welcome you all again.

Thank you.

Keynote Address



Ms. Kim Haing

President

*Korean Institute for Gender
Equality, Promotion and Education*

Dear honorable distinguished representatives, delegates, and colleagues.

I express my greatest appreciation to Hon'ble Mr. Justice K.G. Balakrishnan, and Professor Usha Tandon for inviting me to such a honorable conference. It is my honor to be invited to this 'International Conference on Combating Human Trafficking with Special Reference to Women and

Children'. Before I start, let me introduce myself. I am currently working as a president of KIGEPE, which stands for Korean Institution for Gender Equality Promotion and Education since February, 2014. KIGEPE is a public institution, which is under Ministry of Gender Equality and Family of Korea.

KIGEPE is an institution which is in charge of educating public officials about gender equality education, sexual assault, sexual harassment, prostitution, and domestic violence. We also educate high officials of underdeveloped countries as an ODA (official development assistance) program with KOICA (Korea International Cooperation Agency). Starting from this year, we are providing various violence-prevention education programs through mobile phone (smart phone), targeting the general public. Also, I was the first spokesperson for president madam Geun-hye Park in 2013.

As we all know, human trafficking and slavery is the fastest growing delinquency international wide. We also know by the statistics that 80 percent of human trafficking victims are women and girls. And 50 percent of the victims are minors. This is such an infelicitous fact. First, this problem can't be seen as unimportant crime in certain region or countries.

The imbalance of power and structural inequality between male and female is the root cause of female violence. With this being said, human trafficking is cruel terrorism against female, children, and socially weak. This can be seen as human rights problem, which we all need to

face, living in this period. Therefore, all the nation needs to unite in order to eradicate human trafficking.

There has been many treaties and agreements throughout communities of nations and international organizations, such as UN, to eradicate female violence. This international solidarity act showed much visible success. And nevertheless, there is a reason for emphasizing the need for solidarity of community of nations through this conference. Currently, the statistics of human trafficking that are taking place in Asia are very high. And it is a fact that providing an institutional strategy for carrying a legal binding force in Asia is quite behind compared to other continents.

Rashida Manjoo, a special reporter of the United Nations, states in her report that continents of America, Africa, and Europe has come to an agreement where institutional strategy with legal binding force will be placed based on regional level. Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women is one of the example. Also, Protocol to the African Charter on Human and People's Rights on the Right of Women in Africa(2003) is not exclusively dedicated to violence against women, but it aims to protect women's rights in a comprehensive manner, and includes provisions on abortion, female genital mutilation, and the abuse of women in advertising and pornography.

Finally, the Council of Europe Convention on preventing and combating violence against Women which entered into force on Aug. 1st, 2014, is a European legal framework to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence. On the other hand, non-legally binding instruments in the South East Asia region, the Charter of the Association of Southeast Asian Nations (ASEAN), undertakes to respect fundamental freedoms, and to advance the promotion and protection of human rights, and the promotion of social justice. Further to the establishment of the ASEAN Intergovernmental Commission on Human Rights in 2009 and based on the 2004 Declaration on the Elimination of Violence Against Women in the ASEAN Region, as well as relevant international human rights instruments, ASEAN member states established the Commission on the Promotion and Protection of the Rights of Women and Children, in an effort to foster cooperation in the protection of women's rights in the region.

There has been a significant progress, but still the status of non-legally binding seems limited. I personally believe that this particular happening is from the relation of political dynamics in Asia region. But, the rights of women and children to fight against violence and providing of protection is a human rights problem, which surpasses local politics and international interest. Legal limitation system based on strong solidarity is in need. It is my belief that human rights is above all, even individual country's benefit. I strongly hope that everyone who is here at this moment, can play their parts.

Second, we need to share the philosophy that without the national level of eradicating measures for eliminating violence against women and girls, sustainable economic development is impossible. Of course, this is not the new idea. The Conference on the Environment and Development (Rio 1992) already stated that “the achievement of development goals is impossible without the elimination of violence against women.”

In addition, the Beijing Declaration also links gender-based violence with the achievement of development goals. It states that “violence against women is an obstacle to the achievement of the objectives of equality, development and peace. The low social and economic status of women can be both a cause and a consequence of violence against women.” Currently, Asian countries, especially China and India, are showing magnificent economical growth. Economical growth is priority agenda of other Asian countries as well. But many Asian countries are experiencing a war with inequality and corruption within their nation. The community of nations are evaluating China successful for their national growth objective, based on their war against corruption.

Inequality problem is equally important as corruption problem. And gender inequality is placed deep in the roots within inequality problem. Besides, gender inequality inevitably connects with poverty, and criminal activity. Therefore, eradication of gender inequality is a fundamental prescription for the end of patrimonial poverty, and also an eradication of various violence.

I have a firm belief that the fastest way to subdue poverty is to offer a protection to the maternity of poor household, prevention of poor girls being sold in prostitution and human trafficking so they can be educated in school, and women to be independent and work.

The various sexual harassment, prostitution, sexual violence, and domestic violence against women and weak is the starting point of crime and a form of never-ending vicious circle. So the State needs to realize providing a protection for women and weak is not only protecting their human rights, but also a necessary strategy for nation’s sustainable economic development.

If women and socially weak are excluded and alienated, some degree of economic growth can maybe promised, but it can’t be sustained because a nation which only focuses on particular part of social system can’t exist. I prefer using a term ‘human rights of economy’ over a term ‘democratization of economy’. This term is basically an economic development model which human rights is a priority over everything else. It is a similar strategy from China, which China placed the war against corruption as a priority objective. This is a coexisting national growth model, which a socially strong co-prosper with socially weak who are not protected by the law and socially behind. If we neglect the socially weak, and if



we neglect the various forms of violence, such as human trafficking and prostitution, the nation can't achieve the economic prosperity and pay a tremendous cost to sustain their social system. Therefore, the enforcement of legal bindings and legal system is needed, and due-diligence of nation needs to be sincerely executed.

I believe that due-diligence, which is a legal term with a definition of private transaction, should now be pulled over to public sphere and this concept needs to be used to emphasize the State's obligation duty. This is a very important time, and I have discussed deeply with Rashida Manjoo, a UN special reporter, about this matter. This, I believe, needs to be the very first priority of nation's development strategy. This is not a cost. It's an investment. A fundamental investment for nation's sustainable development like a SOC infra-structure. It also is a path to co-prosperity. It is a strategic development model, which can be cooperated with international associations, such as UN or world bank. I believe that everyone here today will share vast amount of discussion and come to a mutual consent, which will lead us to the same objective. International solidarity to eradicate various forms of violence, including human trafficking, and sharing the point that this is the most definite investment of economical development, I will be greatly blessed.

My deepest respect to all of your scholarly achievements, and I would like to propose a solidarity for all of us to achieve the same objective.

Thank you all.

김행

Inaugural Address



Hon'ble Mr. Justice K.G. Balakrishnan
Former Chief Justice of India
Chairperson
National Human Rights Commission

Professor Usha Tandon, Ms. Kim Haing, Professor Lathwal, faculty members and students, human trafficking is the trade in humans, most commonly for the purpose of sexual slavery, forced labour or commercial sexual exploitation for the trafficking or others. Human trafficking, no doubt, is one of the gravest forms of deprivation of Human Rights and dignity. The Constitution of India, vide Article 23 has mandated that trafficking in every form is prohibited. Therefore, every person in India has a fundamental right not to be trafficked and accordingly it is business of everybody to ensure that no person is trafficked. However, this modern day slavery is growing in dimension, intensity and spread.

2. Today, trafficking is known to take place not only for Commercial Sexual Exploitation (CSE) and Forced labour but also for organ trade and other new forms and derivatives including sex tourism, trafficking for militancy, trafficking for surrogacy and so on. The organized crime of human trafficking, in self, enroots several types of exploitation and human rights violations including physical and emotional deprivation, sexual exploitation, servitude, criminal confinement, sale and purchase of human being like an animal, commoditization of human being etc.

3. According to the Ministry of Women and Child Development (MWCD), Government of India, around 2.8 million persons are subjected to trafficking for commercial sexual exploitation in India and there are 3 million prostitutes existing in the country. It has found that an estimated 1.2 million children are trafficked worldwide every year (ILO 2002:32). India also has the highest number of child labour in the world with an estimate of 12.66 million children involved in hazardous work in several industries that comes under the scanner of human trafficking (Census of India, 2011).

4. Trafficking across state border inside India continues to rise due to increased mobility and growth in industries that use forced labour, such as construction, textiles, wire manufacturing for underground cables, biscuit factories and floriculture. Boys from Nepal and Bangladesh continue to be subjected to forced labour in coal mines in the state of Meghalaya. Burmese Rohingya and Sri Lankan Tamil refugees continue to be vulnerable to forced labour in India. Boys from Bihar are subjected to forced labour in embroidery factories in Nepal. A large number of Nepali, Afghan, and Bangladeshi females, the majority of whom are children aged 9 to 14 years old and women and girls from China, Russia, Uzbekistan, Azerbaijan, the Philippines, and Uganda, are also subjected to sex trafficking in India.

5. Despite such alarming dimensions of intensity and spread, the prevalence of Human Trafficking has not been documented through research. The Commission in 2002 had undertaken an Action Research on Trafficking in Women and Children in India. The NHRC Study (2005) pointed out the methods through which human trafficking goes on. These include: offering jobs as domestic servants, promising jobs in the film world, promising jobs in factories, offering money, luring them with “pleasure trips”, making false promises of marriage, befriending them by giving goodies, offering shelter to girls who have run away from home or street children, offering them to make on pilgrimages, coercion including kidnapping and drugging, luring for adoption etc.

6. Several international conventions, laws and protocols have been adopted by the international and state agencies and departments. However, the legal framework within the ambit of India territory has a strong foundation, as the issue has been brought under the Fundamental Rights as per the Constitution of India. Article 23 (1) of the Constitution prohibits trafficking in human beings and forced labour. The Immoral Traffic (Prevention) Act, 1956 (ITPA) is a special legislation that deals exclusively with trafficking. The ITPA is the main legislative tool for prevention and combating sex trafficking in India.

7. However, till date, its prime objective has been to inhibit/abolish traffic in women and girls for the purpose of prostitution as an organized means of living. The Act criminalizes the procurers, traffickers and profiteers of the trade but in no way does it define ‘trafficking’ per se in human being. The other relevant Acts which address the issue of trafficking in India are the Karnataka Devdasi (Prohibition of Dedication) Act, 1982; Child Labour (Prohibition and Regulation) Act, 1986; Andhra Pradesh Devdasi (Prohibiting Dedication) Act, 1989; Information Technology Act, 2000; the Goa Children’s Act, 2003; and the Juvenile Justice (Care and Protection of Children) Act, 2006.

8. Beside these, there are also certain other collateral laws having relevance to trafficking. These are the Indian Evidence Act, 1872; Child Marriage Restraint Act, 1929; Young



Persons (Harmful Publications) Act, 1956; Prohibition of Offenders Act, 1958; Criminal Procedure Code, 1973; Bonded Labour System (Abolition), Act, 1976; Indecent Representation of Women (Prohibition) Act, 1986; and the Transplantation of Human Organs Act, 1994 (National Judicial Academy, 2001). Further, Article 24 of the Constitution of India prohibits employment of children below 14 years of age in factories, mines or other hazardous employment. The Criminal Law Amendment Act, 2013 has made a paradigm shift in the legal regime on trafficking in India. Section 370 IPC has brought in a comprehensive definition, at par with the mandate of Article 23 of the Constitution and in consonance with UN convention and Protocol 2000. Special provisions have been incorporated under Section 370 (A) to deal with the issue of child trafficking.

9. The Judiciary in India has played a stellar role in activating the executive and promoting policy and law changed towards the prevention of trafficking as well as rescue and rehabilitation of women and minors forced into the flesh trade. In the *Upendra Baxi Vs. State of U.P. and others*, the SC expressed its deep anguish over the condition of protective homes in the country and set up a mechanism through the NHRC to monitor the same (National Judicial Academy, 2001). The decision of the Supreme Court in several landmark judgment including *Gaurav Jain Case*, *Vishal Jeet Case*, *Shakshi Case*, *Budhdev Karmasker*, *Prabhul Desai Case*, *Bachpan Bachao Andholan (BBA) Case* etc. are indeed far reaching, making tremendous transportation in the responds to human trafficking in India.

10. Numbers of initiatives have been taken throughout the country in the area of rehabilitation. As a result, central and the state governments have been forced to re-examine the machinery and resources allocated to deal with rescue and rehabilitation. There is a growing realization of the need for an action plan to deal with trafficking and prevention work. The Ministry of Women and Child Development, GOI and Departments of Women and Child Development of the state governments have been taking a series of measures in the recent past to address the issue at hand. The MWCD, GOI, following the *Vishaljeet* and *Gaurav Jain* judgments, initiated a National Plan of Action to Combat Trafficking of Women and Children. A Central Advisory Committee has also been functioning since then to address the various issues relating to trafficking of women and children in India and take steps towards the rescue and rehabilitation of trafficked victims.

11. The MWCD, National Commission for Women, National Commission for Protection of Child Rights, several State Governments and State Commissions have initiated different programmes and projects to address and redress human trafficking. The 'SWADHAR', 'UJJWALA', 'ICPS' etc of Government of India is pertinent in this context.

12. I am sure that the event being organized by Campus Law Centre, University of Delhi will also focus on the different kind of challenges to prevent the human trafficking in India. The

outcomes of this International Conference will help frame a strategic plan of action aimed at a comprehensive policy on prevention of human trafficking that finally translates into sensitive and progressive law rooted in an individual rights discourse.

13. It is my privilege to inaugurate this International Conference and wish you all the best in the ensuing deliberations that would take place during the course of the day.

Thank you.

Vote of Thanks



Professor (Dr.) P.S. Lathwal
Professor, CLC

‘A blazing start paves the way for surefire success.’ Hon’ble Justice Shri Balakrishnan – Chairperson NHRC, India, Mr. Kim – President Korean Institute, Prof. Usha Tandon, PIC, CLC, delegates, my fellow colleagues, ladies and gentleman, good morning. It’s a matter of great pride and privilege to extend a vote of thanks to the Hon’ble Chief Guest, speakers, dear colleagues and participants from India and abroad who have come to grace the occasion of this three-day International Conference on Combating Human Trafficking With Special Reference to Women and Children. The subject of the discourse ‘Human Trafficking’ is a highly relevant contemporary social issue. I take this opportunity to thank Hon’ble Justice Shri Balakrishnan – Chairperson NHRC, India for the extensive and enlightening introduction to the burning issue. It has set the appropriate tone for the upcoming presentations on the topic during the course of the conference. On behalf of the entire team of CLC, I thank you all for being part of this august gathering. I also thank the university administration, non-teaching staff and all who have provided their active support in organizing this three-day mega-event.

Thanks



Valedictory Session



Welcome Address and Closing Remarks

Professor (Dr.) Usha Tandon
Professor-in-Charge, CLC
Conference Director

Hon'ble Mr. Justice Arjan Kumar Sikri, Judge, Supreme Court of India, Hon'ble Mr. Justice Pradeep Nandrajog, Judge, High Court of Delhi, Respected Mr. Mohan Parasaran, Senior Advocate, Supreme Court of India and formerly Solicitor General of India, Professor Donald Anton, Griffith University Australia, Professor S.C. Raina, delegates, colleagues and dear students, I am delighted to welcome you all again, this time, to the Valedictory Session of 3 day International Conference on Combating Human Trafficking with Special Reference to Women and Children. I am glad that CLC is taking the call of addressing the contemporary legal issues through conferences like this.

This little contribution to the society by CLC could not have been possible without the support of today's chief guest, Hon'ble Mr. Justice Arjan Kumar Sikri. I feel privileged and honoured to welcome our chief guest, who is here with us to close this mega event with his Valedictory Address. He has been playing all possible roles to help his *alma mater* to carry forward its past glory. His Lordship, who is an epitome of immense inspiration for CLC is becoming a source to be relied upon more and more in all times. It was His Lordship's patronage as the Patron-In-Chief of this Conference, that could take this Conference to this height of academic success. It has been a pleasure to work under your protective and inspiring patronage, Sir. and I welcome you, as always, from the core of my heart.

We are also honoured by the esteemed presence of Hon'ble Mr. Justice Pradeep Nandrajog. A true scholar with philosophical mind, he takes personal care of his writings giving a very close reading to the text. I feel inspired with the interest and the seriousness with which Justice Nandrajog has Chaired one of the Technical Sessions. I extend you Sir, a warm welcome, as the Guest of Honour at this hour.



Mr. Mohan Parasaran, Senior Advocate, Supreme Court of India and formerly Solicitor General of India, has been the Patron of this Conference and as such has provided huge support in tackling various problems in organizing this conference- be it the visa problem of some foreign delegates or the hacking of CLC website. He is a man who believes in work than words and works quietly without any expectation of acknowledgment or projection. Well, I take pleasure in mentioning that though CLC hardly has sufficient funds for its functioning, it is dinning at such a hi- fi place as Hotel Taj Place with the grace of Mr. Parasaran. If Mr. Parasaran wishes CLC another Conference, then we will make a wish for another Dinner from him only. I am extremely delighted to extend you a hearty welcome, Sir.

I am very pleased to welcome Professor Donald Anton. Professor Donald had already made a presentation in one of the Sessions of the Conference. I remember, when I requested Professor Donald to be a part of Valedictory Session also, he was a bit hesitant in the beginning, saying that the role should better go to some woman as the theme of the conference is with special reference to women. When I said that women, no doubt are speaking for themselves, but still are badly fighting, and one of the reasons is that women issues are not that dear to men and hence we need more and more men to speak for women issues, he graciously agreed to address the audience on the occasion of valedictory function. I also welcome Professor S.C. Raina and my other distinguished colleagues.

This Conference would not have been possible without the contribution of delegates. I welcome all those delegates who have come from miles away and overseas to take part in this discourse and are very much present till the closing of the event. My young colleagues and student volunteers deserve special mention- Maotoshi Ao, Shourie Singh, Anju Sinha, Sanjivini Raina, Human Khan, Manjesh Rana, Mayank Mittal, Rahul, Rajiv Kamboj and all others who have worked for the success of the conference are warmly welcomed on this occasion.

Now coming to the Closing Remarks, if I look back, we find that the great hopes from the outcome of this conference were expressed by none else than the Chairperson of National Human Rights Commission, Hon'ble Mr. Justice K.G. Balakrishnan in his Inaugural Address of this Conference, when he said that there is a need to focus on different challenges and create a strategic plan to tackle human trafficking and NHRC is looking forward to that possible strategy from this Conference. The various Technical Sessions went very well. All Hon'ble Chairpersons gave their full and unconditional support for the smooth and successful conduct of the Sessions. I am grateful that the participants adhered to my request made in the Inaugural Session for completing their papers in time and leaving time for open house discussions.



The areas and issues discussed in the Conference were so wide, that identifying specific outcome from it is becoming a difficult task for me to present at this hour. We are planning a post-conference-deliberations to find out the new/ unique contribution, if any, of this Conference. I personally attended most of the Technical Sessions. At this stage, I would like to mention five points to mark the outcome of the Conference and way Ahead viz i. prevention of human trafficking by eradicating poverty and investing in education of masses etc, ii. drawing a line between trafficking and non-trafficking movements as sometimes the problem is overstated, iii. implementation of existing laws having a bearing on combating human trafficking with the need of coordination and cohesiveness among these existing laws, iv. desirability and feasibility of one comprehensive law on combating human trafficking, and v. taking the issues of rehabilitation of victims of trafficking seriously and effectively.

Friends, our last Conference was in the month of April end of 2014, which is a warmer month at Delhi. In that warm and humid atmosphere, our present Chief Guest who was also the integral part of that conference wished air conditioning to this Auditorium. This may not be the occasion, strictly speaking, to elaborate on it, but as the Head of this law school, I owe a duty to mention a few things. Though Mr. Parasaran and Mr. Luthra wanted to initiate discussion for the renovation of this Auditorium, but the destiny has taken CLC to other serious issues of retention than renovation of this Auditorium. I hope this period of struggle will be over soon. Well, not saying much on this, I conclude my address by making a wish that if CLC holds another Conference in the next year, it will be at this location and in this Auditorium only. This wish cannot come true without the cooperation and active support of stalwart *alumni* adorning the Dias today. We hope that CLC will keep enjoying its prestigious and envious reputation in the times to come too.

Thank you!

Address by Guest of Honour



Mr. Mohan Parasaran

Senior Advocate

Formerly Solicitor General of India

Honourable and Respected Justice Sikri, Hon'ble Justice Pradeep Nandrajog, Professor Usha Tandon, Professor Donald, Professor Raina, delegates, dear students, ladies and gentlemen, it is most appreciated that Campus Law Centre has organized this international conference on the theme "Combating human trafficking: with special reference to women and children". I congratulate Campus Law Centre for taking up this burning issue.

The plague of human trafficking is a real and serious threat to the stability and well-being of any civilized society that holds dear the freedom of its members. For centuries, in every imaginable part of the world, people of various races, castes and creeds have fought to their death to ensure fundamental human freedoms i.e. liberty and basic human dignity for their future generations. These battles have been hugely instrumental in shaping the social and political set-up as we see it today. Our fundamental rights, so fervently revered as supreme, are rooted in liberty and dignity. It was what our forefathers have strived to achieve; it is how our Constitution came into being.

According to the Protocol¹ to the United Nations Convention against Transnational Organized Crime, human trafficking is defined as "*the recruitment, transport, transfer, harbouring or receipt of a person by such means as threat or use of force or other forms of coercion, of abduction, of fraud or deception for the purpose of exploitation.*" In other words, it means enslavement of human beings for exploiting them, which results in the grossest of abuse of their basic human rights. It is most alarming that far from being isolated

¹ Specifically, Article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.



incidents, this enslavement has become a booming industry; a well-engineered and organized racket. It is a crying shame that human trafficking, something that thrives on the death of free will and dignity, is allowed to grow and prosper only to ensure to the advantage of some individuals who are devoid of any conscience whatsoever.

A Report of the United Nations on human trafficking i.e. “A Global Report on Trafficking in Persons”, reveals some shocking statistics. The most common form of human trafficking is sexual exploitation (79%). Therefore, unsurprisingly, victims of human trafficking are predominantly women and girls. The second most common form of human trafficking is forced labour (18%). Other forms of trafficking include trafficking for begging, ritual killings or mystic practices, organ removal and forced marriage. While all trafficking is not transnational, that does not make the problem any simpler to tackle. On the domestic front too, there is a vast and intricate network of trafficking and one of its commonest hubs happens to be something that we tend to largely ignore. Thousands of women, and even children, are sold into sexual slavery at brothels, condemned to a life of hopelessness and misery. And yet, these illegal / immoral institutions have been thriving from the inception of civilization. Similarly, large factories that manufacture fireworks or involve danger or hazardous work ruthlessly employ children, often under the age of 14.

Why is this happening? We have the requisite laws in place to combat trafficking. Several Articles of the Constitution (Articles 14, 21, 23), provisions of the Indian Penal Code [Sections 366(A) and 372] the Immoral Trafficking Prevention Act, Bonded Labour Abolition Act, the Child Labour Act, etc – they are all aimed at prohibiting this menace. Our judiciary has also taken cognizance of this menace in several decisions and issued directions to the Government to eradicate it. In the case of *Vishal Jeet v. Union of India* (1990) 3 SCC 318, the Supreme Court ordered for an objective multi-dimensional study and a searching investigation into the matter relating to the causes and effects of this evil and requiring most rational measures to weed out the vices of illicit trafficking, while expressing the view that this malady is not only a social but also a socio-economic problem and therefore, the measures to be taken should be more preventive rather than punitive. In *Childline India Foundation vs. Allan John Waters* (2011) 6 SCC 261, the Supreme Court expressed concern for the vulnerability of street children, who having no home, no proper food and no proper clothing, used to accept the invitation to come to shelter homes and became the prey of paedophiles. It also expressed the hope that the several legislations and directions of the Court will be properly implemented and monitored for the better future of these children. In *Neerja Chaudhury Vs. State of Madhya Pradesh* AIR 1984 SC 1099, the Supreme Court gave directions on the rehabilitation of Bonded Labours, stating that rehabilitation must follow in the quick footsteps of identification and release.



Though unpleasant to state, the fact remains that such a large scale and systematic endeavour of enslaving so many individuals cannot take place without the involvement of law enforcing agencies. It is no secret that a few morally corrupt law enforcement officers act in concert with these traffickers, veiling them from law and covertly encouraging their activities. The need of the hour therefore, is to take steps for effective enforcement of laws, ensure proper investigation and prosecution, along with introduction of stringent accountability measures and promoting public awareness. A coordinated effort with NGOs and international organizations to identify and target these illicit activities will also prove helpful on both national and international levels. Equally important are measures for counselling and rehabilitation of trafficking victims.

The International Conference on Combating Human Trafficking will enable academia, Bench, Bar, researchers, diplomats, NGOs, professional bodies, policy makers and law makers to gather and proffer solutions for combating this heinous crime. This is a most welcome step for we all need to bring this problem in the open and address it strategically. As conscious members of this society, it is also our responsibility to ensure the well-being of our brothers and sisters so that they live a happy and free life. We must not let the deaths of all those who have sacrificed their lives to bring us free will and dignity be in vain.

Address by Guest of Honour



Professor (Dr.) Donald K. Anton

*Professor of International Law
Griffith University Law School
Australia*

Good afternoon to everyone. It is a privilege and an honour to speak to you at this Valedictory Session. I am grateful for this opportunity and I want to thank Professor Tandon again for inviting me. I also want to thank all the many wonderful organisers, including the dedicated students who have been so helpful. All of them have worked so

hard to bring off such a spectacularly successful event. My hat is off to all of you.

Now all of us here know that it is shocking; and even more shocking when one really thinks about it. How can it be that the ancient and inhumane practice of slavery – bound up with the control and dominion by one human being over another human being – still exist in the 21st Century in modern forms like human trafficking. This shock stems, in large part, from the fact that slavery is and has long been universally condemned and many thousands have struggled for centuries to end all forms of this vile practice. As such, one might reasonably expect that it might be close to eradication by now. Distressingly, this is far from the case as we have heard from many speakers over the course of the last three days.

This important conference will now assume its place in the long, unbroken, and continuing fight to change the status quo for the better. Its contributions, I hope, are only at the beginning stages. Happily, a large number of brilliant and insightful presentations will find their way into publication and wider circulations. This will help push our deliberations further, but in a moment I would like to make a suggestion to keep the research started here moving forward into the future.

Before this, however, in the brief time I have today I want to address two fallacies that came up several times during our sessions. First of all, during our deliberations the value of our words; our presentations – as opposed to worldly action – was challenged at certain points.



Some felt it more important to be out there doing, than merely thinking about and suggesting action. Surely, though, both words (and the ideas they represent) and action are important. Philip Allott makes the point well in his book, *Eunomia*. Allott rightly highlights that words make our world. To change our words is to change our world. Words have that sort of power. We heard an example of an attempt to change words this morning from Professor Buske – her attempt to change the customary word in Vanuatu for child-swapping as restitution to what it really is today, child-trafficking. It may take a long time, but repetition, legal reinforcement, and education will eventually change the tide.

The long march of the law also shows that words can and do change our world. As lawyers, we are engaged in the never ending normative process of trying to persuade decision-makers, *through words*, which values in society, by virtue of law, must be preserved, which reformed, and which must be discarded. So, slavery itself, once lawful everywhere, through the combination of words followed by action, is now universally recognised as a crime over which every nation has jurisdiction to punish and is prohibited in international law as a norm *jus cogens* from which there can be no derogation. That, in large measure, is down to the power of words and the ideas behind them. So, it is clear that our time spent with words at the Campus Law Centre has been time very well spent.

The second fallacy I want to mention is related to idealism. During our deliberations there was also concern expressed about some of the suggestions and possible solutions put forward as being too utopian and impossible of accomplishment. Here it is well to remember Sir Wilfred Jenks' defence of International Law against charges of idealism. Jenks admonished, invoking Proverbs 29:18 from the old testament of the Bible:

Practical men [and women] ... know from life that people live by their visions and that, while an imperfect vision may lead astray, where there is no vision, people perish.

If the law, lawyers, the bench and scholars of all disciplines are concerned with ending human trafficking it matters greatly; it becomes a vital, driving force in the shaping of our global future. If the law, the bar, the bench, and the academe regard ending human trafficking as an impossible task and beyond their purview; then something self-defeating is put in motion. If we view the situation this way I think the choice becomes simple, especially for those who have not lost faith in human destiny.

So, in order to turn our words in to action; to make our vision and research agendas become reality; I have a proposal. I believe that we, as a group, take a lead in fighting human trafficking. My proposal is this. In order to take the excellent work of this conference into the future, and build on it, we establish an online virtual human trafficking research network. My idea is that this new network could combine scholarship and campaign work (based on



sound scholarship) in the way similar networks for the environment and human rights more broadly already do.

I propose that the network be led by our conference Director, Professor Tandon and based here at the University of Delhi — with such support as we (and our institutions) can contribute. I propose also that every one here be initial members, but that the network also be open to like-minded scholars, lawyers, judges, and civil society actors. The fine details, of course, would need to be worked out, but by establishing such a network we can be both thinkers and practical men and women doing our part to end the abhorrent practice of trafficking.

Thank you.

Address by Guest of Honour



Hon'ble Mr. Justice Pradeep Nandrajog

Judge

High Court of Delhi

Justice Sikri, Professor Tandon, Mr. Parasaran, other dignitaries on the Dias, ladies and gentlemen, I'm given to understand that the deliberations at the three day's conference on issues concerning Human Trafficking were fruitful, since the spectrum of the deliberations covered all aspects of the most sinful of the sins :Objectification of human beings. Though this conference might have ruined Valentine Day, but the deliberations seemed to have achieved its objectives.

I propose to speak on an issue, which apparently seems to be different but at base, is the other side of the same coin. Social strife!

1. The sufferers being the same, as in trafficking; the marginalized poor, women and children.
2. The euphoria of independence was short-lived. As time passed by, cultural disequilibrium has grown. The gruesome violence in Bhiwandi in 1970, the riots in the Hindi heartland in 1984, Gujarat riots in 2002, the riots in Muzaffarnagar in the year 2014 and the riots in Assam this year are a sad reminder that the society is sick.
3. Who suffers the most when there is communal or social strife : the poor, the women and the children. Whatever may be the cause, it is clear that the true and lasting welfare of the country, and of its constituent parts, can lie only in the *national integration* of the diverse cultural forces.
4. Social scientists recognize that the four key concepts of the study of societal development and transformation are : (i) Civilization, (ii) Culture, (iii) Nation and (iv) State.



5. Conceived as circles, one visualizes the four concepts graphically as either *interwoven* and *overlapping* or as *intersecting* and *fragmenting*. These concepts are collateral but not coeval, because culture and civilization have long time sequence. Nation formation and the creation of a State have shorter time sequences.
6. Civilization emerges when technology is married to human values, culture as distinct from civilization, but as part of it, is the result of intellectual or spiritual aspects of collective life, covering beliefs, religion, philosophy, ideas, laws, customs, morals, arts, architecture, drama, dance, music and such aspects of individual's life which have personal and inter-personal values, ethical norms, etiquettes and behaviour patterns. Thus, culture is a socio-anthropological and a humanistic term.
7. Whereas civilization and culture co-relate as a pair; and sometimes are used even as synonyms, because they jointly cover two vital dimensions of the humans collective life. Nation and State, in juxtaposition to civilization and culture, are about socio-political and politico-legal dimensions of group life.
8. A nation would be a historically evolved community, coalesced by a political identity and thus, would be an aggregate of several sub-identities of group life; like language, culture, religion and ethnicity. The State would be a political concept and a legal personality.
9. India, a determinate territorial state, with the second largest population and the sixth largest territory in the world is a defined civilization belt. It represents a fascinating coalescence of cultures, embodied in a distinct unified civilization – part dead and part dying, but most significantly vibrant, regenerative, adaptive and innovative in its large part.
10. The greatest confluences of cultural strands, racial intermixing, cross-fertilization of religious ideas and secular thoughts has taken place in India. India comprises myriad streams of culture, about 16 major languages, 2000 dialects, a dozen ethnic groups, 7 religious communities fragmented into sub-sects and sub-castes that inhabit 68 socio-cultural sub-regions, which fit into the frame of 7 natural geographic regions and therefore, India exhibits a distinct internal homogeneity and external identity.
11. The continental dimension of India, having 3000 years of recorded history and possibly about 2000 years of pre-history, had cultural and social shifts, when in the dim twilight of history primordial hoards of ethnic groups, mostly from Central, South-Central and North-Eastern parts of Asia descended into the fertile Indo-Gangetic plains moving Southward to the Alluvial Deccan Plateau, inhabited by the earliest known indigenous people. It provided the first inter-ethnic mixture pattern. The Dravidians, the Aryans,



the Semitics and Mangoloids, in varied patterns of permutation and combination provided the ethnic sub-stratum of Indian civilization. The Aryan tribes followed by the Sakas, the Yue-chi, the Kushans, the Bactrians, the Scythians and the Hans made inroad into India, followed by the migratory clans of Uzbeks, Turkomans, Tajiks, Iranians, Turanians, Afghans and the Pathans. With each tribe and clan came dialects, belief patterns, social systems and value structures. All boiling in the cauldron to create cultural diversity, which was composite.

12. It is therefore not surprising that the composite culture in India originated in an environment of reconciliation rather than refutation; co-operation rather than confrontation; co-existence rather than annihilation. This explains the politically dominant Islamic strands, represented by Turko-Afghan and Central Asian tribes from Khwarizm, Khorasan, Balkh and Bukhara culturally mixing with the socio-culturally ramified Hindu transitional sub-stratum, particularly covering the Kshatriya and the Vaishya *jatis*; and as a result constituting the middle sub-castes like Rajputs, Thakurs, Jats, Ahirs, Yadavs, Khurmis and Gujjars, in the wide expands of the Indo-Gangetic belt.
13. Three geographically cultural belts : Arabian, Iranian-Turanian and Indian, fused by way of composition of their cultures.
14. Etymologically, the term '*composite*' was used in architectural sense and got extended to mathematics (we refer to composite number); to botany (to identify flowers consisting essentially of small flowers : Florets); and of lately to photography (for a photo that combines several separate pictures). In common terms it refers to anything made up of various parts of elements.
15. It acquired a philosophical meaning in conjunction with culture : '*composite culture*', meaning a particular brand of culture that represents the rejection of uni-cultural regimentation or mono-cultural domination and positively re-affirms the value of pluralism and syncreticism, as the viable, stable and desirable base for cultural efflorescence in a mixed society and plural polity. It is a product of borrowing, sharing and fusing through processes of interaction.
16. We talk of the '*Ganga-Jamuni thazib*' (culture born out of the confluence of Ganga and Jamuna) and it includes 7 streams of influence : (i) *The Vedic vision*, imbued with a sense of tolerance and respect for the many paths of truth, and the essence of the philosophy of the *Bhagavad Gita*, that salvation is through action and duty well done without expectation of reward. (ii) *The traditions of Bhakti Marga*, with the emphasis being on love, as the exile principle of life and the love of God and the love of man as the



means of a mystic vision and the unitive state for the attainment of peace, harmony and liberation in the present life and life thereafter. (iii) *The humanistic concepts of Islam*, which include fraternity of human beings and charity towards the have-nots : The beneficent *Rahman* and the merciful *Rahim* attributes of God. (iv) *The message of 'sulhe-kul' (peace for all) of the Muslim Sufi 'silsilhas (mystic orders)*, with the focus on charity, fraternization of different communities. (v) *The elegance and ethos of the syncretic Indo-Muslim cultural values*, as manifested in social relations, etiquettes in daily life marked by gentility, restraint and deference towards elders; refinement in tastes, aesthetic and physical – in poetry, crafts, culinary, household and lifestyle. (vi) *The cosmopolitanism of modern urban development*, to provide an incipient cultural form for the migrants of the rural hinterland into the cities during the period the western influence in India under the British was creating urban cities with different lifestyles, evincing a rise of the Indian urban professional. (vii) *The heritage of the Indian National movement*, for the liberation and re-construction of the Indian polity, free from the imperial rule.

17. What is the essence of a new national identity in India, in which the heritage of the composite culture plays a cementing and a catalytic role?
18. It has to be the essence of the seven streams of influence to which I have alluded to. The seven major segments of our continental plural society have to be coalesced in a pattern of unity in diversity. The pattern has to use the colour of religion, caste, tribe, language, region, culture, economy and social stratification which may be called the class.
19. National integration is the sine qua non of modernization. Intrinsic in the process would be a radical shift in the focus, and consequential the re-adjustment of the loyalties of the people. For unless fragmented groups, whose existence which is based on particularistic loyalties, do not break down with simultaneous superimposition of generalist loyalties to the total aggregation of the political community – The Nation; with a new national identity cannot be created.
20. The problem is that we focus on fusion, uniformity, merger, assimilation and regimentation. If you read texts on the subject and even judicial opinions, and with an apology to the highest court of the land, these words find repeated mention whenever courts deal with social issues : such as Khap Panchayats, Unified Marriage and Civil Laws etc., ignoring that National Integration means and ought only to mean :
 - (a) Cohesion which is different than fusion; and thus not fusion.
 - (b) Unity which is different than uniformity; and thus not uniformity.
 - (c) Reconciliation which is different than merger; and thus no merger.
 - (d) Agglomeration which is different than assimilation; and thus not assimilation.
 - (e) Solidarity which is different than regimentation; and hence no regimentation.



21. National integration presumes the existence of both unity and of diversity : for if there is only unity then integration is not necessary and if there is only diversity then integration is not possible. Obviously, integration cannot be a process of conversion of diversities into uniformity. It has to be a congruence of diversities leading to a unity in which both the variations and similarities are maintained.
22. In the quest for building a new identity and promoting cohesive mutual unity we need to draw sustenance from the heritage of the composite culture of the past which provided a platform for the enrichment of the relevant values of collective life, enwombing the finest elements of humanism, human fraternity and pluralism.
23. The spirit in which thousands of people moved from one place to another in India, in search of greener pastures or to fulfill their other worldly desire seeking salvation (*moksha*) through pilgrimage; the spirit of there being no legal hindrance to movement of population on pilgrimage or trade and commerce during the past several centuries, requiring no passports to enter a neighbourhood in any part of India; the spirit of the convertible legal document : the *hundi* (a kind of promissory note) issued by *Seths* of Lahore which could be encashed in Madras has to be imbued. We must remember that : *United we stand and divided we fall*, is an old adage which should not be forgotten. The Indian idea of the world as a family '*vasudhaiva kutumbakam*' must guide us through. We must remember that the goal of the revolution : the freedom movement has not been achieved. The religious and social riots, where the poor, women and the children suffer the most, is a grim reminder that the Integration of the Composite Culture in the New National Identity is yet not complete. We have to reach out beyond the confines of our inscriptive beliefs and value orientations to search and find out elements that contribute to a plural society. In order to reach out to all sections of the society, with equal love and loyalty, we have to overcome the prejudices of inherited caste, class and creed. Indeed, it is this composite culture which remains a valuable input into the flowering of a new India, with creative diversity which is unified by the larger humanistic concern for only on it can we build a new civilization, based on justice, equality, dignity and universal prosperity.
24. In 1947 the country threw off its shackles of bondage and attained freedom, but for only a few. *Sare jahan se achchha hindostan hamara* is a popular and patriotic lyric sung by millions with pride, but regretfully, to a vast majority these words are a mockery and represent falsehood. You, the youth of this country are the torch bearers to guide the nation into the much awaited '*dawn of awakening*'. *Be plural. Respect choice. Respect freedom.*

Thank You.

Valedictory Address by Chief Guest



Hon'ble Mr. Justice Arjan Kumar Sikri

Judge

Supreme Court of India

Justice Nandrajog, Professor Tandon, Mr. Parasaran, Professor Donald, Professor Raina, teaching faculty, delegates and dear students, at the outset I agree with Justice Nandrajog that the Valentine Day might have been sacrificed by many attending the Conference.

However serious deliberations like the present social menace of human trafficking needs to be addressed with utmost sincerity over and above the personal days of individuals and it is commendable that Campus Law Centre has successfully organised this three day international conference on this burning and demanding issue.

The most important lesson which was learnt as a result of Second World War was the realization by the Governments of various countries about the human dignity which needed to be cherished and protected. It is for this reason that in the U.N. Charter, 1945, adopted immediately after the Second World War, dignity of the individuals was mentioned as of core value. The almost contemporaneous Universal Declaration of Human Rights (1948) echoed same sentiments.

Article 3 of the Geneva Conventions explicitly prohibits “outrages upon personal dignity”. There are provisions to this effect in International Covenant on Civil and Political Rights (Article 7) and the European Convention of Human Rights (Article 3) though implicitly. At the same time, one can easily infer the said implicit message in these documents about human dignity. Within two years of the adoption of the aforesaid Universal Declaration of Human Rights that all human beings are born free and equal in dignity and rights, India attained independence and immediately thereafter Members of the Constituent Assembly took up the task of framing the Constitution of this Country. It was but natural to include a Bill of Rights in the Indian Constitution and the Constitution Makers did so by incorporating a Chapter on Fundamental Rights in Part III of the Constitution. However, it would be



significant to point out that there is no mention of “dignity” specifically in this Chapter on F.R. So was the position in the American Constitution. In America, human dignity as a part of human rights was brought in as a Judge-made doctrine. Same course of action followed as the Indian Supreme Court read human dignity into Article 21 of the Constitution.

Professor Upendra Baxi in his first Justice H.R. Khanna Memorial Lecture on the topic *‘Protection of Dignity of Individual under the Constitution of India’* dispelled the belief that *‘dignity notions are gifts of the West to the Rest’*. At the same time, he explained eurocentric view of human dignity by pointing out that it views dignity in terms of personhood (moral agency) and autonomy (freedom of choice). Dignity here is to be treated as ‘empowerment’ which makes a triple demand in the name of respect for human dignity, namely : (I) respect for one’s capacity as an agent to make one’s own free choices; (ii) respect for the choices so made; and (iii) respect for one’s need to have a context and conditions in which one can operate as a source of free and informed choice.

Thereafter, he elucidated the notion of dignity as prevalent in this part of the world by adding: *“I still need to say that the idea of dignity is a meta-ethical one, that is it marks and maps a difficult terrain of what it may mean to say being ‘human’ and remaining ‘human’, or put another way the relationship between ‘self’, ‘others’, and ‘society’.* In this formulation the word *‘respect’* is the keyword: dignity is respect for an individual person based on the principle of freedom and capacity to make choices and a good or just social order is one which respects dignity via assuring ‘contexts’ and ‘conditions’ as the ‘source of free and informed choice’. *Respect for dignity thus conceived is empowering overall and not just because it, even if importantly, sets constraints state, law, and regulations.”*

Jeremy Waldron in his article *“How Law Protects Dignity”* opines that dignity is a sort of status-concept.

Kant, on the other hand, has initially used dignity as a ‘value idea’, though in his later work he also talks of respect which a person needs to accord to other person, thereby speaking of it more as a matter of status.

It is not the occasion to deliberate on as to what should be the exact definition to ‘dignity’. Nor I am attempting to do the same. The only purpose for which I have referred to the concept of dignity, as accepted worldwide, is that it is the basic human right that all individuals are to be respected. They have to be given proper status. Looked from this angle, human trafficking is the most serious human rights violation that impinges upon and violates the human dignity. *Alas*, notwithstanding UN Charter of 1945 and Universal Declaration of Human Rights in 1948, according such a guarantee in almost all the Constitutions of the democratic nations, human trafficking is, and still remains, a serious international crime of clandestine nature, which, as stated above, directly violates human



rights and undermines the very core of human dignity. Overall, the industry is estimated to amount US\$38 billion (according to Department of Justice, United States) and is accepted as third largest organized crime next only to drugs and ammunition. To elaborate on the term and internationally recognized definition as captured in the Palermo Protocol:

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Till a couple of years ago, the situation of the victims was much worse as they were also treated as offenders along with the traffickers and both were treated as accused persons in a case. But, since the trafficker was more resourceful, he would manage to get away, as it were, leaving the victims to their fate. Fortunately, the victims are now being given the human touch but the question is where does one go from here.

It is estimated that an astounding 20 million men, women, and children are victims of trafficking or modern day slavery having been coerced or deceived into forced labor worldwide. This can be broken down to an average of three out of every thousand people are currently in a forced labor situation. Out of all victims, 5.5 million (26%) are under 18 years of age. As point of reference, it is estimated that in the U.S. alone, close to 100,000 children are subjected to sex trafficking each year. The largest concentration of all victims of forced labor are found in the Asia-Pacific region with 11.7 million (56%), trailed by Africa, which accounts for 3.7 million (18%) and Latin America with 1.8 million (9%) of all victims from around the world. According to the 2009 and 2010 TIP reports, the United States had placed India on a Tier-2 watch list of countries involved in human smuggling.

Referring to it as modern-day slavery, the TIP report stated “India is a source, destination, and transit country for men, women and children subjected to trafficking in persons, specifically forced labor and commercial sexual exploitation”. Those from India’s most disadvantaged socio-economic sector are vulnerable to labor and sex trafficking. Some of them are trafficked to the Middle East, Europe, and the United States to work as domestic servants and laborers.

A 2013 BBC report mentioned tens of thousands of young girls disappear in India every year. They are sold into prostitution, domestic slavery, and even into marriage in the northern states of India where the sex ratio is skewed because of widespread female foeticide. In India, there are 33,000 missing children each year and only one-third are found.



Children are considered to be one of the most vulnerable members of our society. Trafficking among children is the worst kind of human right violation which can be committed against them because the children of indigenous people and ethnic minorities are especially vulnerable to trafficking. Children from poor families don't go to school and are employed in low skilled occupations. Migration from rural to urban areas leaves children to end up on the streets and makes them highly vulnerable to sexual exploitation. Child Labour being so prevalent- children end up as porters, in domestic servitude, carpet weaving, shoe shiners and in other cases are trafficked for organ transplants. It is not only the trafficked children who are in danger. Children on the streets, at schools, and at homes are also at risk. On February 07, 2013, the Human Rights Watch (HRW) published an 82 page report titled *Breaking the Silence: Child Sexual Abuse in India*. "India is home to 430 million children", said the report. "From the moment they are born, the challenges many of them face are staggering... The government estimates that 40 per cent of India's children are vulnerable to threats such as trafficking, homelessness, forced labour, drug abuse, and crime, and are in need of protection".

Many strange and innovate methods are used for trafficking women and children in this country. One is through the misuse of placement agencies. The BBC team visited five villages in the Sunderbans community, in the South Parangas district of West Bengal and found all the villages had missing children, mostly girls. The reporter talked to a man in the Calcutta (Kolkata) slums, who sold girls for a living. He sold about 200 girls a year from ages ten and above and made ¹ 55,000 (\$1000) per girl. He said there was a big demand for them and with the money he had made he had bought three houses in Delhi. "I have men working for me. We tell parents that we will get them jobs in Delhi, then we transport them to placement agencies. What happens to them after that is not my concern", the man said. "Police are well aware of what we do. I have to tell police when I am transporting a girl and I bribe police in every state – in Calcutta, in Delhi, in Haryana". I had the occasion to deal with this kind of trafficking in a Public Interest Litigation filed by *Bachpan Bachao Andolan*, which is an NGO run by Nobel Laureate Shri Kailash Satyarthi. But as stated by Professor Tandon each case has to be seen on its own merits. Placement agencies are a great help to the working women and girls taken from these agencies are earning and leading a nice life too.

Other methodology used is to exploit the old age practice of *Devdasis*, which is still prevalent in South India. For centuries young girls in India were also offered to the temples, where they learned the performing arts and were devoted to the Gods and temples. They were called the *Devdasis*. Over time, after invasions took place and temples fell, these women fell into poverty and were abused by the village men. Today, women who have fallen on hard times, who have been widowed or deserted by their husbands, or who have developed AIDS, still offer their daughters as *Devdasis*. At puberty, most girls are auctioned off to urban



brothels, where the men prey upon them. These young girls are involved in sex trade, have multiple sex partners, and develop sexually transmitted diseases. Children born to them are also likely to be infected. They grow up without ever knowing their fathers. Visthar, a Bangalore-based NGO, runs a school to rehabilitate them. Set in a natural environment, it offers them spacious campus grounds as a place for healing. It also trains peace activists and organizations involved in social justice.

Sex trafficking is a ten million dollar industry in India. Sunitha Krishnan, founder of Prajwala runs seventeen schools in Andhra Pradesh for 6,000 children she and her team have rescued from forced prostitution. Krishnan, who was gang-raped by eight men when she was a young teen, now works with the Indian Government to define an anti-trafficking policy. She also works with the State Governments to rehabilitate sex victims, and with corporations to help find employment opportunities for these victims.

Crimes commonly concurrent with child trafficking are- Domestic violence; Child abuse or neglect; Child sexual abuse; Child pornography; and Child labour violations.

The causes of trafficking include:

- 1) *Poverty and globalization* – Poverty and lack of opportunity are major foundations of trafficking. Poverty is a common thread that runs through the stories of many victims. People living in extreme poverty are given the promise of a well paid job and a better life in another country, perhaps with lodgings and educational opportunities included. They have no idea that the person making the extravagant promises is a trafficker. And they do not find out until it is too late. Trafficking shows phenomenal increase with globalization. Increasing profit with little or no risk, organized activities, low priority in law enforcement etc., aggravate the situation.
- 2) *Lack of Education* – When there is lack of educational opportunities, future prospects are limited which increases vulnerability to traffickers, especially among girls. Educational programs must enable them to learn relevant, practical skills, including basic and reproductive health, nutrition, hygiene, and HIV/AIDS prevention, as well as reading, writing, critical thinking, and problem-solving skills.
- 3) *Social attitude, culture and practices* – Gender- biased social practices lead parents to be persuaded by traffickers under false pretext of marriage without dowry- women being an economic burden on family.
- 4) *Castes/Tribes* – age-old customs and traditions- in India *Devadasi* tradition in Karnataka, Andhra Pradesh and Maharashtra in which parents of scheduled tribes marry their daughters before puberty to a deity or temple and then force them to provide sexual services to upper caste community members.



5) *Forced marriage/ Bride Trafficking* – girls and women are trafficked not only for prostitution but are bought and sold like commodities in many regions of India where female ration is less as compared to male due to female infanticide and these are then forced to marry. Bride trafficking is forced sale, purchase and resale of women and girls in the name of pious relationship i.e. marriage. Girls and women are kidnapped or forced into bride trafficking and raped, sold and/or married off without their willingness only to end up as a permanent slaves and bonded labourers at the sympathy of the men and their families. According to Global Voices approximately 90% of the 200,000 humans trafficked in India every year are victims of inter-state trafficking and are sold within the country. The states of Haryana, Punjab and Rajasthan are major destinations of trafficked ‘brides’. The Haryana province alone has a great gender difference and is hence known as the destination for bride trafficking.

6) *Bonded labor* –Victims of this equally widespread form of trafficking come primarily from developing countries. They are recruited and trafficked using deception and coercion and find themselves held in conditions of slavery in a variety of jobs. Men, women and children are engaged in agricultural and construction work, domestic servitude and other labour-intensive jobs. June 1st 2012 sees the launch of a new ILO global estimate of forced labour – a shocking 20.9 million women, men and children are trapped in jobs into which they were coerced or deceived and which they cannot leave. The figure means that, at any given point in time, around three out of every 1,000 persons worldwide are suffering in forced labour.

7) *Conflicts/ Natural disasters* – Areas undergoing post conflict/disaster period become transit points for trafficking due to infrastructure devastation, crumbling law and order, and increasing numbers of vulnerable and destitute populations- lack of access to comprehensive information or legitimate and affordable migration programs. Chaos, mass migration and the separation of family units make people vulnerable to kidnap for the purposes of trafficking. Theses situations can equally encourage potential victims to agree to themselves or family members being taken elsewhere on the promise of safety and a life with more stability.

8) *Governance* – poor governance and scarce government services, absence of an effective legal framework, unequipped to support vulnerable groups.

9) *Placement agencies* – Some of placement agencies apart from other placement work carried on by them engage themselves in placement of children in various establishments including as domestic help. There is no statutory control over the functioning of these agencies due to which the children who are either picked up from the streets or brought from various other states to Delhi are first placed as domestic help and later shifted to other more hazardous work including some who are pushed into prostitution.



10) Another reason is that of Family dysfunction and violence and abuse in the home is the hidden cause, as the child wants to run away from such situation of disturbance and torture and needs a peaceful environment, thereby making them approachable for trafficking for various purposes.

Sex Trafficking: also known as flesh trade, is a clandestine industry. Hardly 5% of the total problem is visible. Most often victims are sold as children but they only become visible to the world years later, when they are adults and pose no risk to the traffickers. The social attitude and perception regarding sexual violence across the world and associated stigma and ostracization pushes the problem of sex trafficking further into oblivion.

Sex trafficking is most visible in red light areas. Every country has certain areas that are identified as red light areas. Sometimes it is openly talked about, as in the case of Thailand or Netherlands, but most of the times it remains as an open secret. In India, practically every state has such an identified area.

While the visible portion of sex trafficking is largely limited to these areas, a far greater number of women and children are traded in houses, apartments, hotels, lodges, resorts, etc. A significant part of sex trafficking also happens in guise of tourism and this is very difficult to identify. Even more clandestine is the instance of trafficking for pornography which can happen anywhere, Sex trafficking happens in guise of friendship clubs, massage parlors, beauty parlors, record dance, tourism and even through social networking sites.

Means adopted by traffickers include deception & fraud, coercion through blackmail, exploitation of position of vulnerability, and abuse of a position of power

Over 93% of the sex trafficked victims never get rescued. Among the millions of victims across the globe, a mere 7% or less get a chance to come out of the exploitive world. Of these meagre numbers, a still smaller number actually get rescued on time i.e., wither before inducted or after being freshly inducted. Most victims get rescued much later when they have already gone through the different stages of innumerable tortures and trauma and have started surviving in the world of exploitation.

The journey of sex trafficking destroys the body, mind and soul of a victim, and fundamentally takes away a human being's capacity to trust oneself or anybody around her. The victim has to live with the damage caused to her psyche by prostitution and this makes her aggressive and hostile to any support.

Understanding Indian Legal Provisions

In the existing scenario, trafficking is usually confused with prostitution and therefore, there is no proper understanding of the seriousness of trafficking. It would be appropriate here to list out the wrongs, violations, harms and crimes that are committed by various persons on a trafficked victim.



These violations can be realized only during a careful interview of a trafficked person. Once the victim is allowed, facilitated and promoted to speak, the unheard story will reveal a long list of violating acts perpetrated on her. As a typical example, under the Indian Penal Code, a trafficked girl child may be a victim of multitude of violations such as Sections 361, 362, 365, 366 (Displacement from her community, which tantamount to kidnapping/abduction); S.366 A (Procured illegally), S.372 (Sold by somebody), S.373 (Bought by somebody), S.366 B IPC (if she hails from a foreign country, or even from J & K State, and is under 21 years of age –), S.339 (Wrongfully restrained), S 340 (Wrongfully confined), S.327, 329 (Physically tortured/injured), S.350 (Subjected to criminal force), S.351 (Mentally tortured/harassed/assaulted), S.506 (Criminally intimidated), S 354 IPC (Outraged of her modesty), S. 375 (Raped/gang raped/repeatedly raped), S.377 IPC (Subjected to perverse sexual exploitation ('unnatural offences'), S 499 (Defamed), S.374 (Subjected to unlawful compulsory labor), S. 120 B (Victim of criminal conspiracy) may apply

The above provisions are only illustrative and not exhaustive. Undoubtedly, in every case, the trafficked person is a victim of at least one or more of the violations listed above. Oftentimes victims become pregnant as they are subjected to non-protective sex. If the victim has been subjected to miscarriage then the liability of the offender falls under the Sections 312 to 318 IPC. In some cases, the process of exploitation has proven fatal wherein the victim succumbs to the direct effects of the harm or to the consequential problems arising thereof. This means that the offence of homicide/murder is also attracted.

The offences under ITPA :

- *S.3 ITPA:* Keeping or managing (or assisting in keeping or managing) brothel or allowing premises including vehicles to be used as a brothel.
- *S.4 ITPA:* Living on the earnings of prostitution (even partly).
- *S.5 ITPA:* Procuring, inducing, trafficking or taking persons for the sake of prostitution. Even attempt to procure or take would constitute this offence.
- *S.6 ITPA:* Detaining a person in any premises (brothel or any other) where prostitution is carried out.
- *S.7 ITPA:* Any body who carries on prostitution, or any body with whom such prostitution is carried on, in the vicinity of public places (which includes hotel, vehicles, etc).
- *S.8 ITPA:* Seducing or soliciting for the purpose of prostitution in any public place or within sight of a public place.
- *S.9 ITPA:* Seduction of a person in custody (including causing or abetting seduction for prostitution of a person in custody).



The Juvenile Justice (Care and Protection of Children) Act, 2000 (JJ Act 2000) also has penal provisions. Anybody in control of a child who assaults, abandons, exposes or willfully neglects the child or procures him to be assaulted, abandoned or exposed causing the child unnecessary mental or physical suffering, is liable under S. 23 JJ Act.

There are so many Human Rights violations that take place on trafficked person. The list includes the following: deprivation of the right to life (slave-like conditions), deprivation of the right to security, deprivation of dignity, deprivation of the right to access to justice and redressal of grievances, denial of access to health services, denial of right to self determination (e.g. when the victim is re-trafficked), denial of right to return to own community, double jeopardy (e.g., a person trafficked across a border is some times convicted for non-possession of passport/visa, etc. and is simultaneously punished for 'soliciting'), denial of right to representation, denial of right to be heard before decision making..

The list of rights violations is long and several such violations can be listed out depending on the provisions of the Constitution/ Protocols/Conventions etc.

In my concluding remarks I would say that there is no dearth in legal provisions to prevent, check and remedy the human trafficking of women or children. Problem lies with the enforcement of these laws. These laws remain only on paper. In fact, those who violate these laws and indulge in this trade are generally powerful people and by flexing money or political power they are able to win over those who are supposed to enforce the law and protect this vulnerable section of the society. Probably, this is the reason that human trafficking has not only survived but thrived over the years. There are good NGOs who are doing their best in this field. Even in the police force there may be some good Samaritans doing the job to the best of their ability. Wherever causes come to the Court, judiciary tries to do its best in the given situation. However, all these efforts simply amount to taking out some buckets from the ocean. Problem with huge magnitude remains and the future is as bleak as the present or what it was in the past. At the same time, I should not be sounding very pessimistic. All like-minded people should come together and try to find solutions to this menace and take steps to at least reduce its volume significantly if the eradication is impossible.

In this scenario, I admire the spirit of the organizers of this International Conference and the participants in this Conference playing the role of Starfish Saviour and wish them all the best.



Vote of Thanks
Professor (Dr.) S.C. Raina
Professor CLC

The vote of thanks is the ritual of every function. But today the vote of thanks is special because of the special dignitaries present on the dias. All the three dignitaries have been the students of Campus Law Centre and for them it is home coming. We are grateful to each one of them: to Hon'ble Mr Justice Arjan Kumar Sikri, Judge, Supreme Court of India, Justice Sh. Pradeep Nandrajog, Judge, High Court of Delhi, Mr. Mohan Parasaran, Senior Advocate, Supreme Court of India and Former Solicitor General of India. Their presence is an inspiration to all delegates who assembled in this International Conference and Moral boost to teachers and students of the Campus Law Centre. We are beholden to all of them.

We thanks all the delegates both national and International whose participation and discussion has enriched the contents and deliberation of this conference. We are thankful to all Student volunteers and administrative staff as well as young faculty member of Campus law Centre whose veritable support has made the conference a real success and last but not the least, we are thankful to Professor Usha Tandon, the Professor-In-Charge for the horizontal support to the success of this conference.



Welcome Dinner

The CLC and the delegates of the conference had a fabulous welcome dinner of the conference and also a great time interacting among the CLC faculty, delegates and distinguished guests at Hotel Taj Palace, New Delhi on the evening of 13th February, 2015. The welcome dinner was hosted by Mr. Mohan Parasaran, Senior Advocate, Supreme Court of India and Formerly Solicitor General of India. Besides, the CLC faculty, student volunteers of the conference and delegates of the conference, the dinner was attended by distinguished guests. Hon'ble Mr. Justice Pradeep Nandrajog, Judge High Court of Delhi, Hon'ble Ms. Justice Hima Kohli, Judge High Court of Delhi, Hon'ble Mr. Justice Rajiv Sahai Endlaw, Judge High Court of Delhi, Hon'ble Ms. Justice Sangita Dhingra Sehgal, Judge, High Court of Delhi, Ms. Kim Haing, President, Korean Institute of Gender Equality, Promotion and Education and Professor (Dr.) Donald K. Anton, Professor of International Law, Griffith University Law School, Australia, were the distinguished guests present during the dinner.

The delegates and CLC faculty also enjoyed the presence of Professor (Dr.) B.T. Kaul, Director, Delhi Judicial Academy, Professor (Dr.) Parmanand, Former Dean, Faculty of Law, University of Delhi and Professor (Dr.) S.C. Raina, Professor CLC. The dinner started at around 7:30 p.m. (Indian Standard Time) and concluded by around 9:00 p.m. (Indian Standard Time). The dinner was indeed a very magnificent time for all those present, who enjoyed the ambience and the food interacting with each other. The presence of the host-Mr. Mohan Parasaran, during the dinner was greatly appreciated by all and was regarded the greatest blessing showered upon CLC and the delegates of the Conference.

Technical Sessions

Technical Session- I

Friday, February 13, 2015

12:00 pm to 01:45 pm

Venue: Seminar Hall, CLC

Human Trafficking: Definition, Causes & Effects

Chairperson

Hon'ble Mr. Justice Manmohan Sarin

Former Chief Justice, Jammu and Kashmir High Court; judge, High Court of Delhi and Lokayukta NCT Delhi

Co- Chairperson

Professor (Dr) P.S.Lathwal

Professor CLC

Rapporteur

Ms. Anju Sinha

Assistant Professor, CLC

The Session started on the first day of the Conference immediately after high tea of the Inaugural Session in the morning of February 13, 2015, with the introduction of the **Chairperson Hon'ble Mr. Justice Manmohan Sarin**, Former Chief Justice, Jammu and Kashmir High Court: Judge, High Court of Delhi and Lokayukta NCT Delhi and **Co-Chairperson Professor (Dr.) P.S. Lathwal**, Professor CLC by Professor (Dr) Usha Tondon, Professor in Charge, CLC.

The Session began with the keynote address of the Chairperson stating that trafficking in human beings in special reference to women and children is a violation of human rights – the right to live with freedom and dignity and is a stigma on humanity. It is illegal as well as immoral and an intensely complex issue. Comprehending the need for coherent, consistent, harmonized approach, international agencies and national government have developed and implemented a variety of anti-trafficking measures in close cooperation with non-governmental organizations. He appealed to the audience to make the Session an interactive and lively one, after which some time shall be provided for discussion. The Chairperson gave instructions to the delegates that each delegate shall not take more than 20 minutes and in order to save time, the delegates must focus on their main points rather than reading the paper. He also requested everyone to stick to the topic. He told to the House that he is reserving his remarks to be shared at the end of the session, as he wanted to give sufficient time to the presenters and hear them first.



The first paper entitled "Human Trafficking in Costa Rica" was presented by **Gaby Curras Schoepflin, J.S.D/ Doctoral Research Scholar, St. Thomas University, School of Law, Miami, Florida, USA**. She highlighted that despite the fact that Costa Rica enjoys a steady economic rate and being a politically stable country there is still the menace of human trafficking on a large scale. The paper utilized the new heaven school of policy of jurisprudence approach as methodology to further explore the topic of human trafficking in Costa Rica. It discussed the past trends in decision and the condition factors by looking at domestic and international law instruments to help combat human trafficking in the context of Costa Rica including the protocol to prevent and punish trafficking in persons especially woman and children. At the end, the paper presented an alternative and recommendation to fight this menace.

The second presenters **Apeksha Kumari, Ph.D Scholar (Law) and Prashant Chaudary Ph.D Scholar (Social Work), Jamia Millia Islamia University, Delhi, India**, presented their paper entitled "Child Trafficking-An Analytical Condition Of Children Homes" which started with mentioning that childhood is the most innocent phase of the human life and anything if disastrous and heinous happens can leave an indelible imprint in their life. They start hating their childhood and can do anything to come out of it. Role of various machineries like NGOs, police, civil societies are vital in combating with crime. The objective of the paper was to understand the process involved and the aftermath impact including the psychological needs of children.

The third paper entitled "Commercial and Coerced Surrogate Motherhood as an Emerging Form of Human Trafficking" was presented by **Sonali Kusum, Ph.D Scholar National Law School of India University (NLSIU) Bangalore, India**. The paper helped to understand the wider perspective to the definition of human trafficking by suggesting to include non sexual or other forms of trafficking as well. Surrogacy has gained legitimacy as well as sufficient popularity across the world but has also brought with itself the socio legal evil of human trafficking which has happened due to unregulated, commercial, overseas or cross border arrangements surrogacy. The objective of the paper was to consider commercial and coerced surrogate motherhood as the contemporary form of human trafficking and gross human rights violation issue at both the national, international level for similar reasons related to the trafficking as bodily exploitation compelling socio economic reasons as poverty, illiteracy, imposition of servile conduct, autonomy, integrity and human rights.

The fourth presenter **Navitka Singh, Assistant Professor, Galgotias University, Greater Noida, India**, presented her paper on "Trafficked Bride: Whether a Dream From Hell to Heaven or a Reality For Sexual Exploitation: A Study". Bride Trafficking is a recently developed kind of trafficking which has introduced a concept called marriage of convenience. In this after a women chooses a partner for herself, she is forced to get into a

wedding against her wishes. The traffickers sell the women to whoever is willing to pay for the brides. Sometimes violence is used to convince them to leave their homes.

The fifth speaker, **Pooja Gopal, Ph.D Scholar, Centre for Canadian, US and Latin American Studies (CCUSLAS) Jawaharlal Nehru University, India** presented paper on the topic “Definition, Causes and Effects of Human Trafficking: With Special Reference to Trafficking in Women for Sexual Exploitation; Commercial Sexual Exploitation of Children(CSEC)”. She started with Article 3 of Trafficking Protocol 2000. She explained that in the modern world it is a widespread practice and a growing phenomenon of smuggling of human beings especially of women. Human trafficking is a trade of human lives as commodities due to the factors of persistent unemployment, illiteracy, corruption, human deprivation, etc.

At the end of the Session, during the question hour, few important questions were asked by some other delegates. The question and answer are as follows:

Questions and Answer Session:

1. **Question (Prof (Dr.) Donald K Anton, to Gaby Curras Schoepflin):** There are numerous and sufficient laws to curb the menace but how can they be made effective?

Answer (Gaby Curras Schoepflin): There should be proper training to identify the victims and guidelines on how to treat them because a miserable treatment can prove to be more excruciating.

2. **Question (Emad Daoud to Prashant and Apeksha Kumari):** What can be done about the miserable conditions of the shelter homes for children?

Answer (Prashant): Lack of recourse remains the root cause of the problem and so the children are not even provided with any counseling. Justice Manmohan Sarin, the Chairperson, said that the answer to it lies in the participation of society.

3. **Question (Erimma Gloria Orie, to Gaby Curras Schoepflin):** Doesn't lack of criminal sanction for the offenders in Costa Rica create a problem? At what time a victim become an accused?

Answer (Gaby Curras Schoepflin): Costa Rica does not criminalize prostitution. Solution could be if there can be the criminalization of demand from a sexual perspective. An actual victim can also be at times become a trafficker or he can be forced to be a trafficker. Sometimes the families of the accused are also coerced to get into this vicious cycle and bring new people into the trafficking.

**Observations of the Chairperson
Hon'ble Mr. Justice Manmohan Sarin**

The Chairperson, Hon'ble Mr. Justice Manmohan Sarin observed that human trafficking is a crime against person because of violation of victim's right through coercion and exploitation. India has legal provisions to counter trafficking but its implementation is a big problem. There is a need to prepare the society for the implementations otherwise they will remain on paper only. This is a social evil and we as a society are party to it.

He cautioned that we should not always take the excuse of lack of resources because excuses will not solve the problem, the best way is to involve the society. We, as a society can come out with an intention and action to minimise this evil. Although surrogacy has gained legitimacy as well as sufficient popularity across the world, but due to unregulated, commercial cross border arrangements, it has also brought with itself the socio legal evil of human trafficking.

He stressed that we should not take women as commodity but rather should respect women. With political, social will and commitment, we can go ahead to accomplish it and eradicate the problem. He concluded by saying that in India the awareness of trafficking issue should be increased, particularly in rural areas, where there is a high threat of trafficking.

Technical Session – II

Friday, February 13, 2015

02:30 p.m. – 04:15 p.m.

Venue: Seminar Hall, CLC

Forms of Human Trafficking

Chairperson

Hon'ble Ms. Justice Aruna Suresh

Former, Judge, High Court of Delhi

Co-Chairperson

Professor Rajiv Khanna

Director, Faculty of Law, SGT University, Gurgaon

Rapporteur

Ms. Harleen Kaur

Assistant Professor, CLC

The session started immediately after lunch with the introduction of Chairperson **Hon'ble Ms. Justice Aruna Suresh**, former, judge, High Court of Delhi, and **Co- Chairperson Professor Rajive Khanna**, Director, Faculty of Law, SGT University, Gurgaon by Prof Usha Tandon, Professor-in-Charge, CLC.

The session began with the keynote address by the Chairperson who gave an insight into human trafficking. She stated that there is recognition for the need for human rights based approach to human trafficking, as it is not just a criminal activity but also one that has profound human rights implications. The reasons for increase in human trafficking are various. They range from poverty, personal circumstances – like a dysfunctional home environment, vulnerability factors related to the social, economic and socio-structural factors; like industrialization and globalization, economic crises, economic decline, underdevelopment, etc.

She stressed that trafficking in human beings is a multi-dimensional problem and is being considered to be the third largest well organized crime. It is not only confined to prostitution. With the growing importance of tourism, sex tourism and sex related trafficking have also gone up. Organ donation has become a form of organ trading/trafficking because of shortage of organs required for transplantation to save the life of a patient. Trafficking is the smuggling of human beings. It is different from migration. The exploitation and violation that the victim is subjected to in some form or other continues during the entire trafficking process and also in post trafficking scenario. Trafficking can be national or international.

Trafficking of women and children from the North-East States of India and bordering countries like Nepal and Bangladesh in both directions is on the increase and is a serious issue. Therefore both the law enforcement agencies and civil society need to make special efforts to combat sex tourism.

She emphasized that it is easy and simple to analyze the varied aspects of trafficking in humans, especially women and children, however, it is very difficult to eradicate and prevent human trafficking. As Montessori Maria, *The Secret of Childhood*, Fides Publishers, Inc. New York, 1966 page 13, has said

“All adults stand accused - the society responsible for the welfare of children has been put on trial. There is something apocalyptic about this startling accusation; it is mysterious and terrible like the voice of The Last Judgment: What have you done to the children that I entrusted to you.”

Then the **Co-Chairperson Professor Rajiv Khanna** called in the first speaker **Bipin Ghimire, faculty member, Department of International Relations and Diplomacy, Tribhuvan University, Nepal** who presented his paper on the topic “Trafficking of Humans from Nepal: a Dark Reality”. His paper highlighted different forms of human trafficking like child trafficking, bonded labour and servitude, foreign labour exploitation and trafficking for organ transplantation and analysed its interwoven relationship with the openness of international border and the socio political situation of the people in the country.

The second paper on the topic -Justice Verma Committee, Prostitution, Trafficking and Exploitation: A Socio Legal Perspective- was presented by **Nikita Audichya, research scholar, Centre for Law and Governance, JNU, New Delhi**. Her paper analysed certain core questions like what is meant by choice? Is prostitution really sex work? Is there something inherently exploitative with prostitution that inadvertently links it with human trafficking? Will legalization help in annihilating this aspect of prostitution? Moreover the paper entailed the analysis of JVC, The Criminal Amendment Act, 2013 and Palermo protocol.

The third presenter **Rashi, Research Scholar, Department of Social Work, University of Delhi** presented her paper on the topic- "Trafficking with Special Reference to Prostitution among Girls and Women in India: Interventional Strategies". The paper focussed on women trafficking as akin to prostitution which is one of the main reasons of human trafficking and highlighted the various rights which it violated such as right to life, right to liberty, right to freedom from torture or cruelty and so on. To combat the problem the interventional strategies need to focus on rescue, repatriation and redressal including counseling services.

The fourth presenter **Dr. Bhavish Gupta, Associate Professor, Amity Law School, Delhi**, presented his paper on the topic- "Trafficking and Commercial Sexual Exploitation: an

International Perspective". It provided insights on how human trafficking being the most lucrative crime is also punishable under international conventions. The UN convention for the suppression of the traffic in persons and of the exploitation of prostitutions of others is the primary international treaty that protects right of sex workers. Many other related international protocols were mentioned.

The last speaker **Vaibhav Mishra, LL.B. Student, Faculty of Law, University of Allahabad**, presented paper on "human organ trading: an international concern". The paper highlighted how due to the absence of unanimity amongst the developed and the developing nations the problem has increased where countries like USA, India, China, South Africa and Philippines are against organ trades in any manner. Iran is the only nation to legalise such trading. Various global initiatives to eliminate this problem were mentioned.

At the end of the session some important questions were asked by other delegates. The question and answer are as follows:

Questions and Answer Session:

1. **Question: (Sonam Dikshit, to Nikita Audichya):** are you trying to state that prostitution should be legalized?

Also is there a proper mechanism to bring those victims out of prostitution who want to come out of it?

Answer: (by Nikita Audichya)- We don't have a credible mechanism in function in our country as of now for people who want to come out of this activity. There are reformation centers, rescue homes etc but when it comes to actual rehabilitation, we have failed miserably. Our Prime Minister has repeatedly spoken for providing skill development and vocational training.

There are women who want to continue the profession of prostitution. But the social stigma is such that their kids can't survive in the society. My idea is not to criminalise it but rather provide a proper rehabilitation for these.

2. **Question: Niloy Basu to Bipin Ghimire):** can you highlight two or three points relating to the strategy of government of Nepal to curb human trafficking?

Answer: (by Bipin Ghimire) There are NGO's working on this issue. Lot of work has been done to educate children to have awareness, etc.

In the end of the session there was a comment made by Pooja Gopal, Ph.D Research Scholar, JNU that when providing rehabilitation facilities to the victims and skill development, it should not just leave the victims to jobs such as making baskets, rather they should be provided such a skill that helps them acquire a better job in the society.

This comment was further seconded by **Professor Rajiv Khanna** the Co-Chairperson. The session ended with thanks by Chairperson and Co-Chairperson.

Observations of Chairperson
Hon'ble Ms. Justice Aruna Suresh

The Chairperson, **Hon'ble Ms. Justice Aruna Suresh**, observed that it cannot be denied that, there is recognition for the need for a human rights based approach to human trafficking, as it is not just a criminal activity but also one that has profound human rights implications. Comprehending the need for coherent, consistent and a harmonized approach, International agencies and National Government have developed and implemented a variety of anti-trafficking measures in close cooperation with non-governmental organizations. The government of India has also taken various steps to check and tackle the menace of human trafficking in cooperation with various non-governmental organizations which are doing great work in sensitizing the society, the victims and the persons involved in organized commercial and international human trafficking. She concluded that though various laws have been enacted to check the menace of human trafficking however, the need of the hour is to ensure implementation of these laws in their true spirit and meaning with a focus on rescue, repatriation and redressal including counseling services and providing such a skill to victims that actually helps them acquire a better job and position in the society.

Technical Session - III

Saturday, February 14, 2015

09:30 a.m. - 11:15 a.m.

Venue: Seminar Hall, CLC

International Conventions Pertaining to Human Trafficking

Chairperson

Hon'ble Ms. Justice Sangita Dhingra Sehgal

Judge, High Court of Delhi

Co-Chairperson

Mr. S. K. Gupta

Associate Professor, CLC

Rapporteur

Ms. Cheshta Dahiya

Assistant Professor, CLC

The third working session of conference was the first session of the second day of the three days international conference. The session started in the morning of Feb. 14, 2015 with the introduction of the **Chairperson Hon'ble Ms. Justice Sangita Dhingra Sehgal**, Judge, High Court of Delhi, by **Co-Chairperson Mr. S. K. Gupta**, Associate Professor, CLC.

The chairperson appreciated the fact that the even on Valentine Day the Seminar Hall was full of students. The chairperson instructed that in order to save time presenters must highlight their main point rather than reading paper.

The Chairperson then, she invited first speaker for the session **Professor (Dr.) Donald K. Anton, Professor of International Law, Griffith University Law School, Australia**. The paper of the presenter was titled "Exploring the potential impact of then 2014 protocol of the forced labour convention, 1930." He discussed recent international legal development designed to help end human trafficking. In particular labour exploitation that is embodied in 2014 protocol to ILO forced labour convention 1930. He cited that experts identified the various gaps for which guidance could be available. Also there are low rates of prosecution of trafficking offences and insufficient victim protection. In the end he highlighted that victim centric approach should be there and measures taken under protocol shall be determined after consultation with organizations of employers and workers concerned.

Second paper was presented by **B. G. Akhila, Research Scholar, JNU, New Delhi**. The title of her paper was "The effectiveness of United Nation trafficking protocol 2000 in combating immoral trafficking a critical analysis. She emphasized that human trafficking is

the negative consequence of gender and economic inequality. The new liberal globalization policies have widened the gap between have and have not. She highlighted that Palermo Protocol address the issue only in context of transnational trafficking but not the trafficking within domestic jurisdiction gender inequality is also major contributor as women being poorer and lacking more political representation tend to become vulnerable to human rights abuses by becoming trafficked and men becoming traffickers. In the end she concluded that combating human trafficking is impossible unless a holistic and effective mechanization operates both at national and international level.

Third speaker **Ms. Niharika Bahl, Independent Law Researcher and Guest Faculty, CLC University of Delhi** presented the paper titled “Towards a Gender Perspective on Human Trafficking.” She submitted that women stand at a higher risk of being trafficked owing to unequal status they occupy within their homes and in society at large. She discussed the sick tea plantation industry in West Bengal, India which had witnessed extensive closure following economic liberalization revealing endemic women and child trafficking. She mentioned the case *Rontsev v. Cyprus* in which court highlighted that trafficking threatens the human dignity and fundamental freedom of its victims and can not be considered compatible with a democratic society and the values expanded in convention.

The Fourth Speaker **Dr. Aparna Srivastava, Researcher, High Level Committee on the status of women GOI, UNDP project, India** on paper titled “Child Trafficking” emphasised that extreme poverty is adversely affecting the poor, particularly the children. The children are made to work as beggars they are also used for forceful marriage, labour and for sex tourism also. She suggested that prevention is best cure. Government and civil society needs to respond to the specific needs of children in vulnerable situation.

Last speaker was **Mr. Sahil Ghai, IInd Yr, CLC, Student**. His paper title was “Child soldiers”. He said that child soldiers are ones who haven’t even attained the proper age to distinguish between right and wrong. They are used by military commanders to get their mission targets achieved. He emphasised on reintegration of these child soldiers that include family reunification, community network, physiological support and education opportunity

At the end of session, during the question hour, few important questions were asked to the presenters.

Questions and Answer Session:

1. **Question: (Niloy Basu to Aparna Srivastava)** as you have been working and involved with EWC Delhi and aware about the exploitation of children at Chhaterpur basti area, So administration must do something.

Answer: (by Aparna Srivastava) Although action was taken in the past, nothing substantive happened and still the condition of the children is same.

2. **Question (Bipin to Sahil Ghai)** Children are trafficked due to religious purposes and there are boys recruited for money. What do you say on that?

Answer: (by Sahil Ghai) Devdasi system was prevalent earlier and 70% claim that they have been abducted, but 36% children were taken away by giving money to parents starting from Somalia to Ethiopia, Nigeria eg- ISIS control region etc. Pakistan does not show anything or record.

Observation by Prof. Donald K. Anton, there is lack of cooperation in criminal law bodies and the other organizations. There is a gap in the implementation. Urgent action is also required.

Observations of Chairperson
Hon'ble Ms. Justice Sangita Dhingra Sehgal

The Chairperson, **Hon'ble Ms. Justice Sangita Dhingra Sehgal** observed that the government of India is taking various steps to check and tackle the menace of human trafficking. It has ratified the United Nations Convention on Transnational Organized Crime and its Protocol on Prevention, Suppression and Punishment of Trafficking in Persons, particularly Women and Children. Many NGOs are doing great work in sensitizing the society, and the individual victims and persons involved in organized commercial and international human trafficking. Various laws have been enacted to check the menace of human trafficking. She concluded that need of the hour is that the laws should be enforced in their true spirit.

Technical Session – IV

Saturday, February 14, 2015

11:30 a.m. – 01:15 p.m.

Venue: Seminar Hall, CLC

Regional Institutional Legal Framework

Chairperson

Hon'ble Mr. Justice Jayant Nath

Judge, High Court of Delhi

Co-Chairperson

Ms. Kim Haing,

President, Korean Institute for Gender Equality, Promotion and Education

Rapporteur

Mr. Mayank Mittal

Assistant Professor, CLC

The session commenced in the morning of February 14th, 2015 with introduction of the **Chairperson, Hon'ble Mr. Justice Jayant Nath**, Judge, High Court of Delhi and **Co-Chairperson Ms. Kim Haing**, President, Korean Institute for Gender Equality, Promotion and Education by the Rapporteur Mr. Mayank Mittal, Assistant Professor, CLC. The session began with Chairperson feeling a sense of comfort and nostalgic to be back in the institution from where he embarked upon his legal journey and continues to serve the same selflessly.

The Chairperson, **Hon'ble Mr. Justice Jayant Nath**, in his Key Note Address, discussed various UN's instruments and Indian legal provisions dealing with human trafficking human. He elaborated that we have Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime to punish and suppress these activities, adopted by U.N General Assembly. In India, he mentioned that we signed a Protection 2002 ratified on 5th May 2011. In this Protocol very wide definition of trafficking all inclusive recruitment, transfer, transportation, harbouring or receipt of person by use of threat has been adopted. Human trafficking has Trans-National implementations. Protocol has made necessary provisions so as to take care of trans national character of the problem. As per Article 7 of the Protocol, States have considerably adopted legislative measures to permit the victims to remain in territories temporarily or permanently. Article 8 provides mechanism to be followed whenever victim of trafficking is return to its parent state. Article 10 provides that Law enforcement agencies and other authorities should cooperate by exchanging information.

He referred SAARC that signed a convention in 2002 “Preventing and Combating Trafficking in Women and Children for Prostitution”. The Convention defined the trafficking in different manner moving, selling, buying of women and children for Prostitution within or outside Country. For monetary and other consideration again the convention has founded transnational problem in providing of mutual legal assistance between countries in investigation, trial and other proceedings. Article 9 of the convention is an exhaustive Article on fair treatment rehabilitation, repatriation of victims.

Going Back to Indian Constitution, he stated that Article 23 provides for right against exploitation and prohibits traffic in human beings and forced labour. Article 24 provides no child below the age of 14 years shall be employed to work in a factory mines or any hazardous employment. Other major legal provision addressing the trafficking of women and children are: Indian Penal Code, 1860, Immoral Trafficking (Prevention) Act, 1956, Criminal Law Amendment Act, 2013. The Indian Penal Code contains nearly 20 provision like kidnapping, abduction, buying and selling of a person for slavery labor, buying and selling of a minor for prostitution etc. The immoral trafficking Act addresses the issue in India only in context of commercial sexual exploitation. The new Criminal Law Amendment Act, 2013 provides various term of imprisonment under section 370A of IPC for different types of trafficking and has tried to curb the menace.

Being a part of judiciary, he said that he must also say, that Supreme Court has played very important role in this regard, way back in 1982 in *People Union for Democratic Rights V. Union of India*, The Supreme Court has intervened with Public Interest Litigation for ensuring observance of various labour laws. In other judgment in 1984, *Neeraj Choudhary V. State of M.P*, Supreme Court said that the release of bonded labour without rehabilitation would be driven by poverty, helplessness and back into bonded labour. The Supreme Court in this case asked the State to provide rehabilitation assistance to 150 odd bonded labour. In 1990 in *Vishal Jeet V. Union of India*, The Supreme Court said “This devastating malady will be suppressed and eradicated only when law enforcement agency take severe and speedily legal action against pimps, brokers and brothel people. In this case Supreme Court also passed direction to set up various advisory committee regarding eradication of child prostitution. The outcome of this direction has been that the committee has been looking into the problem.

To wind up his address, he remarked that “ultimately in my analysis, it is not the law but its implementation which is creating the issue, we hope that someday this region is free from the menace.”

The first presenter, **Muhammad Fatahillah Akbar, Faculty of Law, Universitas Gadjah Mada, Indonesia** while presenting his paper co-authored by **Dian Agung Wickanso**



“Implication of the Mutual legal Assistance in Eradication of Human Trafficking In Indonesia”, affirmed that Indonesia has high poverty and unemployment rate which in turn forces vulnerable group to seek the job in other countries, namely to Malaysia, the middle-east and Saudi Arabia. He signified the international character of human trafficking in Indonesia which leads to the complicated law enforcement. To cope with the situation, Indonesia has the Act no 1 of 2006 on Mutual Legal Assistance. It prescribes as to how Indonesia shall cooperate with the other countries in dealing with the crime. The speaker highlighted that mutual legal assistance is the assistance as well as the agreement between the countries. He, further, stated Indonesia has varied laws specifically, Indonesia Penal Code, Protection of Children Act to combat this evil and concluded with pronouncing “Human trafficking is a transnational crime” and all the countries shall come forward to fight this growing disease.

The second presenter, **Dr. Shivani Goswami, Assistant Professor, USLLS, GGS IP University, New Delhi** presented the paper entitled “Trafficking of Women and Children : A Global Social Evil”. She conspicuously stated that the trafficking is considered as 3rd largest organized crime in the world and crossed all the limits of insensitivity and inhumanity. She constantly focused upon poverty as being the biggest reason for escalation of human trafficking. She aptly described the social ostracization faced by the girls after their body is no longer being able to serve the sexual lust of man. Dishonoured by the society, disowned by her family and painfully aware of all odd stacks against her, she discards her identity. Further, she rolled out the battery of measures to be taken up to curb down the causing factors; poverty, being the first one has to be fought with due diligence and attention. She also mentioned about child domestic labour and child sexual abuse in her speech and demanded strict appliance of POCSO ACT, 2012. Towards the end of her eye-opening speech she appealed the govt to prioritize on two P's: Protection to victims and Prosecution against offenders.

The third presenter **Ms. Chaya Singh, student, Rajiv Gandhi National University of law, Patiala, India** presented her paper titled “The Slave Across the Street: Acknowledging and Combating labour Trafficking.” She began by quoting Article 3 of United Nation protocol on Human Trafficking and sincerely distinguished between the involuntary and voluntary labour. The difference is important to learn to comprehend the core problem which we as a world are facing today. She analysed a different picture by shifting the focus which is mainly on sexual exploitation of women and children to that on labour-related trafficking which occurs in a wide range of sectors, such as agriculture, fishing, manufacturing and various other areas. She, further, examined the visible as well as not so visible trafficking. She also spoke about ILO, UNITED NATION AGENCY according to which there has been around 182 conventions dealing with changing realities of situation and fighting this menace but

sadly the problem of trafficking and slavery has outnumbered all the conventions, laws and protocols.

The fourth presenter, **Ms. Madhu Bhatti, Assistant Professor, Law Centre –I, University of Delhi, Delhi** presented her paper titled “Child trafficking: A new form of Slavery with Special Reference To Ancient India”. She said human trafficking is not a new concept but a modern form of slavery. It has affected us largely and according to Global Slavery Index latest report 14.2 million people from India are slaves, out of 30.8 million across the world. It's not the problem only in India but total of 167 countries have this problem. They are facing some or other form of slavery. She reiterated that forms of slavery as already been discussed by speakers like bonded labour, sex trafficking, child beggar, domestic servitude & one of the thing that she would like to talk about is Ritual Sex. "I would like to talk about is ritual sex slavery which many of us think has been abolished but are going on in many parts of India like Andhra Pradesh, Karnataka and Maharashtra that is Devdasi system whereby they submit the girl child to a Goddess the child so small as 5 years old and when the child reaches puberty, then they submit her to the richest man of the village or the priest for his use, he can use her the way he wants. Once, he is done or is bored with that girl, she is left to the use of the whole village. Later on, she is also forced into prostitution etc. And one more thing, the legal framework, we have so many laws on that but the major part is implementation & for implementation, we only look up to the Government but we have so many examples, if we leave everything to the Government, then nothing is going to be sorted out. Individual efforts, efforts on behalf of society is also required as we have seen so many, one of the examples being Bachpan Bachao". In conclusion she asked every citizen to take measures to curb down this crime and asked all the rehabilitation centres to come forward and reach out to them in normalizing their lives once again.

Last presenter team of this engrossing session **Ms. Barnali Das & Pooja Chetry, Research Scholars, Centre of Women's Studies, University of Hyderabad, Hyderabad, India** furnished their paper titled “A study of Anti-Trafficking Measures and its Impact on the Discourse of Sex Trafficking” wherein they spoke about Anti –Trafficking legislation and its extensive history on abolition of slavery. It was banned through international agreements such as Slavery Convention of the League of Nations in 1926. Though several International legal mechanisms banned slavery in any form, yet the vulnerable sections of the society such as women, children are victims of it. Human trafficking network is undoubtedly deep rooted in the practice of slavery. It is from the Victorian era that foundation of human trafficking measures of the form of Contagious Disease Act of 1866 although the act is not really applicable to the causes of human trafficking but the general behalf of the academia consider it to be one of the cogent principle towards an establishment of that trafficking laws. Further, they stated that the discourse of the trafficking became widespread in trafficking women's

bodies for prostitution, then a latin and emotional way to impede in the rise of widespread slave trade. However, one cannot support the fact of trafficking.

COMMENTS BY PROF. (DR.) USHA TANDON: She strongly condemned human trafficking which denies individuals their dignity, reducing them to mere objects by shamelessly exploiting them. She called for a coordinated and significant response to human trafficking, due to multifaceted nature of human trafficking, and its close connection with other transnational issues, emphasising that no country is capable of combating this transnational threat on its own. She added that tackling human trafficking needs to be balanced with progressive and proactive laws enforcement. As a solution to human trafficking she said that it should not only be dealt as merely a migration issues but looking it as an issue of human rights violation, therefore justice must be served. She advised everyone to be a conscientious citizen, for government alone cannot fight this expanding felony.

At the end of the session some important questions were asked by other delegates. The question and answer are as follows:

Questions and Answer Session:

1. **Question Sarah Angeli (USA) to Muhammad Fatahillah Akbar and Dian Agung Wicaksono (Indonesia):** Is it practicable to contemplate the effective working of Mutual Legal Assistance in combating International human Trafficking especially when each country has its own peculiar reasons for trafficking?

Answer: (Muhammad Fatahillah Akbar): In different countries, the form of trafficking may appear to be different, but in substantial analysis, the core problem is same in every society, i.e. poverty and illiteracy. Though Mutual legal assistance at later stage will be effective in preventing trans boarder trafficking by providing effective information mechanism, its more about making investigation easy and feasible when it has trans boarder connections. In Indonesia it is working, now its for nations to adopt the similar mechanism and to improve it.

2. **Question: (Advocate Vishal Singh (M.P.) to Chhaya Singh and Sagrika Semwal(Patiala):** Don't you think that present Indian Legal System has proved complete failure and unsuccessful in eliminating trafficking?

Answer (Sagrika Semwal): It is not actually. There was effective criminal law to prevent the problem of trafficking even before independence, now after 2013 amendment in IPC, this anti trafficking law has been made more effective. Though I will not be saying that situation is satisfactory, but its not the lack of law but an ineffective implantation of the law that is the root cause of main problem.

Chhaya Singh: Indian Judiciary has also been very active in combating the evil of Trafficking not only implementing existing Indian laws but also by reading the specific provisions of International conventions in Fundamental Rights, in those cases where there has been position of no law in India.

3. **Question: Anubhav to Dr Shivani Goswami:** Do you think that poverty is the only substantial cause for the trafficking?

Answer Dr Shivani Goswami: Poverty has always been central to the problem of trafficking. Though there are other causes as well, like unemployment, illiteracy and rehabilitation and acceptance of victim of the trafficking, which are also responsible for making the problem worse but they can be said to be directly or indirectly related to the issue of poverty. Eradication of poverty will include in itself the solution of all these and other connecting problems.

Observations of Chairperson Hon'ble Mr. Justice Jayant Nath

The chairperson **Hon'ble Mr. Justice Jayant Nath** shared his views by highlighting the role of civil society in prevention and rehabilitation of victims of human trafficking and their families. He viewed human trafficking as modern slavery, forced labor or commercial sexual exploitation by the trafficker or other person. He discussed about the various protocols to punish the offender and suppress such activities, one of them being Trafficking Protocol adopted by United Nations General Assembly in 2000. Further, he enlightened upon the SAARC Convention on Combating Trafficking in Women and Children for Prostitution. The convention emphasizes upon the evil of trafficking which is highly incompatible with the dignity and honour of human being. He also mentioned about Article 23 and 24 of Indian Constitution which are categorically against exploitation and child labour, the major legal provisions of IPC and the Criminal Law Amendment Act, 2013 which provides for various terms of imprisonment u/s sec 370 A to 374.

Concluding the session he said that we can say that law making agencies throughout the globe are performing their duties by making laws at national as well as international level, now before seeking more and more laws we should make more proper and substantial efforts to effectively implement these laws. It is the area of the implementation where we are lagging behind, not only in India but throughout the world.



Technical Session – V

Saturday, February 14, 2015

02:15 p.m. – 04:00 p.m.

Venue: Seminar Hall, CLC

Comparative / Domestic Human Trafficking Law

Chairperson: Hon'ble Mr. Justice Manmohan

Judge, High Court of Delhi

Co-Chairperson: Professor (Dr.) B.T. Kaul

Chairperson, Delhi Judicial Academy

Rapporteur: Mr. Moatoshi Ao

Assistant Professor, CLC

The Fifth Technical Session of the conference started in the afternoon on 14th February, 2015 with the introduction of the **Chairperson, Hon'ble Mr. Justice Manmohan**, Judge, High Court of Delhi and **Co-Chairperson, Professor (Dr.) B.T. Kaul**, Chairperson, Delhi Judicial Academy by Professor (Dr.) Usha Tandon.

The Chairperson **Hon'ble Mr. Justice Manmohan** expressed his pleasure in coming back to CLC. In his keynote address he highlighted that human trafficking is the worst form of exploitation with intent to make profit. It is not just limited to sexual exploitation but also to bounded labour, child labour and organ transplantation. He referred to Prajwala matter pending in the Supreme Court of India in which Supreme Court is examining the whole gamut of human trafficking including the deficiencies that may be in law. He apprised the House that the Supreme Court of India has constituted a sub-committee in drafting a model law. Since he is one of the members of that committee, this conference is of special interest to him and he is looking forward to some workable solution to this problem.

The first presenter of the session **Dr. (Mrs) Erimma Gloria Orie, Lecturer School of Law, National Open University of Nigeria, Lagos-Nigeria** presenting her paper titled "An Examination of the Legal Framework on Trafficking in Persons in Nigeria" exhaustively discussed the present status of implementation and execution of anti-trafficking legislations adopted in Nigeria such as the Trafficking in Persons (Prohibitions) of Laws Enforcement and Administration Act 2003, the Child Rights Act, 2003, and the Labour Act, Chapter 198 Laws of the Federation among others to curb human trafficking. She asserted the need to broaden the understanding of the mechanisms of border crossing and expand conceptual frameworks to incorporate internal child trafficking in Nigeria. She also highlighted that the Nigerian Penal Codes and NAPTIP Act do not have provisions for the protection of victims and or witnesses. A combined reading of Sections 9, 36, 37 and 45 of NAPTIP Act give limited protection since trial is conducted in public. For the prosecution of sexual offences generally the courts, even in cases that the law does not expressly require protection, always insist on corroboration. This is discriminatory against women and girls who are mostly the



victims. She suggested that every States in Nigeria should enact similar laws on ant-trafficking and must align their policies with surrounding states and with international legal standards regarding trafficking. She also pointed out that weak legislation in Nigeria has developed to a culture of impunity on the part of the traffickers as they find it very lucrative to remain in the trade and pay fine anytime they are caught. There is therefore need to review the anti-trafficking laws particularly against the backdrop of Nigeria's compromised rule of law. She emphasized on the need for the harmonization of Nigerian legislation with international standards.

The Second speaker **Professor (Dr.) Rajni Malhotra Dhingra, Dean, Vivekananda Law School (VIPS), New Delhi, India**, in her paper entitled "Rampant Human Trafficking: Barbaric Face of Civilized Nations" elaborated that the disease that is affecting humanity since ages remain uncured, despite the antidote suggested at national and international level. She stated that according to the International Labour Organization estimates 20.9 million people are victims of forced labour globally. There are 1.39 million victims of commercial sexual servitude worldwide. According to her the cause of this disease is poverty, lack of employment, traditions and greed of man, etc. The presenter also highlighted the various statutory laws adopted and enforced in India. She emphasized that despite the Constitutional guarantees (Article 23 of the Constitution of India) and statutory protections, thousand of Indians are trafficked everyday to some destination or the other and are forced to lead lives of slavery. They are forced to live in brothels, factories, guesthouses, dance bars, farms and even in the homes of well-off Indians, with no control over their own bodies and lives and hence compelled to live a miserable life. She concluded with some suggestions that no international convention, no constitutional and statutory provisions have the capacity to eradicate this obnoxious evil with so many forms and shapes i.e. slavery, bonded labour and forced prostitution, unless they hit very hard on the root of all the problems. The solution of this problem is hidden in inclusive growth along with the dissemination of the knowledge and awareness. This disease can be eradicated by cooperation from all sectors of the society. Active social intervention and campaign together with stringent execution of the statutory provisions can eradicate the vices of human trafficking.

Mudit Maheshwari and Dipali Patel, LL.B. Students, Institute of Law, Nirma University, Gujarat, India were the third presenter of the session. They presented a paper titled "Role of Indian Judiciary on Human Trafficking". According to them the root cause for trafficking in India is poverty compounded with lack of skills, illiteracy and a very few livelihood options makes women and children easy targets of the organised criminal groups which exploits them in lieu of jobs and better life. It is thus the parents due to poverty the children are forced to work. The biggest challenge in tackling trafficking is that it is often linked to prostitution which keeps our leaders away and prevents them from exerting their powers. India now is the source, destination and transit country for human trafficking primarily for commercial sexual exploitation and forced labour, with significant variation in sex ratio trafficking for marriage is becoming a major pull factor and is another cause for



trafficking in women and girls. According to the presenters there are about 4566 cases of human trafficking pending before the courts in India. This is due to the judiciary not giving priority to trafficking cases and hence the judiciary should prioritize cases human trafficking. The presenters elaborated on the cultural drawback in India particularly on the Devadasi system. The presenters pointed out the flaws in the Indian legal system that it does not recognise “trafficking in person” as specific and separate crime, instead trafficking under the Immoral Traffic prevention Act, 1956 which is known as the main legal framework available to deal with the cases of trafficking but only deals with the criminalisation of prostitution and giving them punishment, this Act does not talks about prevention of prostitution or trafficking. The second flaw pointed out by them is that even after the incorporation of Criminal Law (Amendment) Act, 2013 by inserting a new Section 370A which criminalises trafficking and exploitation of trafficked person there is no particular definition of trafficking. The exploitation of trafficked person as stated in Section 370A only covers sexual exploitation and not any other forms of exploitation. The presenters also pointed out the flaws in the Indian legal system which gives discretion of the judges to either give imprisonment or do way the offender with a fine on various offence and such legislative acts needs to be changed with immediate effects because in order to deal with such serious crimes strict punishment must be awarded by the judiciary. Another flaw pointed out was the definition of child under the Indian legal system particularly what age should be defined as child as the various statutory laws in India define the age of child in contract to each other. The presenters concluded by suggesting firstly to adopt the definition of trafficking in person as given by the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. Secondly, to have a common definition of child in your legal system i.e. any person below the age of 18 years and this should cut across all the laws whether labour, criminal or family law and thirdly to have a new designated court, similar to that of Child Welfare Committee, in these courts there would be one judge and two social workers and it shall have the same power as that of district and sessions judge. This will help in curbing the unnecessary delay, and would make the victim comfortable during the trial. Special courts should be established to prosecute the trafficking cases in all states in India.

The paper titled “Human Trafficking for the Purpose of Prostitution: Legislative Framework in India” was presented by the fourth presenter **Ms. Monica Chaudhary, Assistant Professor, CLC, University of Delhi, Delhi, India**. The presenter pragmatically elaborated on the definition of human trafficking that India has for the first adopted recently in the Criminal Law (Amendment) Act, 2013. Thus, Section 370A of IPC specifically defines the offence of trafficking in accordance with the Palermo Protocol. She also elaborated on the flaws in various statutory laws in India. Firstly, the Immoral Traffic in Persons (Prevention) Act, 1956 (ITPA) only penalises sexual exploitation or abuse of persons for commercial purposes. However, the terms ‘sexual exploitation’ or ‘commercial purposes’ are not defined in the Act. Thus according to her the ITPA does not specifically define trafficking and trafficker. She also asserted that Section 10A of the ITPA treats the female victims of trafficking as ‘offenders’ who need correction in a detention centre. The presenter also spoke



on the culturally sanctioned practices and prostitution in India the *Devadasi*. She also spoke on the legal measures adopted before and after India's independence. The presenter also recommended that a distinction needs to be made between sex workers who have taken up the profession voluntarily and sex workers who have been forced into prostitution. Speaking on the law relating to children, the speaker said that the Juvenile Justice (Care and Protection of Children) Act, 2000 conforms to the UN Convention on the Rights of the Child, 1989, the UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) 1985 and other relevant international instruments. She also stated that the Goa Children's Act, 2003 defined trafficking for the first time in Indian jurisprudence. She concluded by suggesting measures like to address the root cause i.e. poverty, lack of employment, education and sex ratio, effective enforcement of law, awareness, proactive policing, formation of community vigilance group, standard operating procedures and rehabilitation and care with dignity especially in case of transnational victims.

The fifth and the final presenter of the session **Ms. Manjula Raghav, Assistant Professor, Amity Law School Delhi, Delhi, India** presented a paper titled "Human Trafficking in India: The Need of Active Judicial Intervention". She spoke on the definition of human trafficking adopted by the United Nations and the various laws in India. According to her Poverty, population and unemployment, child marriages, natural calamity, migration, Sex tourism, etc. are the factors behind human trafficking. She also spoke on the legal history of the Immoral Traffic in Women and Girl's Act, 1956, (SITA) and The Immoral Traffic (Prevention) Act, 1956 (ITPA). Among other legislation in India she spoke on Information and Technology Act, 2000, IPC, Juvenile Justice (Care and Protection of Children) Act, 2000, Goa Children's Act, 2003 and various constitutional provisions like Article 23 and 24. She also spoke on various international covenants. The speaker asserted that despite all the mandatory legislations and international covenants, still the problem of human trafficking is persisting globally, thus there is an urgent need to sensitize the officers and the police to deal with the matters of human trafficking. The victims of human trafficking are mostly women, girls and children. To deal with them it is important to sensitize the administration towards them only then these matters can be effectively dealt with. In conclusion the speaker suggested that the state should formulate policies to ensure that prostitution does not become a means for survival for the victim and/or his/her family. Secondly, the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength and thirdly, the state should particularly strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities amongst individuals and groups of people residing in different areas or engaged in different vocations.

COMMENTS BY CO-CHAIRPERSON, PROFESSOR (DR.) B.T. KAUL

The Co-Chairperson remarked that the problems discussed today is not the issue of our nation India alone but universal. He said that in fact international law is the hallmark of all legislations and hence international norms must be adopted by all civilised nations. We have



come to a state where we have felt the need to address not only human trafficking which is immoral but also other issues as well. It is beggar, bounded labour, sexual exploitation, organ trade, etc. Professor Kaul also reasoned on the definition of human trafficking adopted by India under the Criminal Law Amendment Act, 2013. Thus, under the new law the word 'abduction' is used because it has wider meaning and interpretation than the word 'kidnapping'. In his remarks, answering to the discussion of the session he questioned "Is criminal law answer to the question of human trafficking? He answered himself, after all criminal justice may not be the only solution to the problem, human trafficking is a problem of want, need and greed too."

At the end of the session some important questions were asked by other delegates. The question and answer are as follows:

Questions and Answer Session:

1. **Question (Mr. Niloy Basu):** What actions should judiciary take to combat human trafficking?

Answer (Hon'ble Mr. Justice Manmohan): The Main issue to this problem is with the legislation. If there is proper legislative frame work, than half of this problem is solved. The court find difficult to deal with issues when law is incomplete. There is lack of evidence to convict the trafficker. The victim does not know that she is abused. She feels that it is the only way to survive. There are lot of trainings required with the police and NGO's to bring evidence on record. So this is a complex issue. The judge can decide a matter as it is presented to him but can not import facts and that is where the law needs to be properly framed and implemented. The police handling the matter does not know what he is supposed to do. He does not know how to collect the evidence. He can not give a decision looking at the victim and accused. He does not know who the accused is and who is victim. Thus, the matter is very complex and unless there is proper legislative frame work where police is better equipped to deal with the ground level work in separating the victim and the accused and how the victim is to be rehabilitated. Thus, in fact, the whole issue revolves on the question of rehabilitation and I hope that the Supreme Court would do something soon on this issue.

2. **Question (Mr. Uddin):** In the past the consent of the victim was considered. Should legalisation of the consent of the victim would be a wise idea?

Answer (Prof. B.T. Kaul): The values that worked in the past are not the values that we cherish today. When we go to liberty and dignity of the human being and interpret in the context of the present day society, we say that Sati that used to be considered as virtuous to the society is no longer cherished today. Law is an instrument of social transformation and that is why we have fundamental and constitutional duties. Now it is the Supreme Court and High Courts to interpret the Constitution. Article 51A says that respect for Constitution and respect of Constitution is respect for the fundamental and human



rights; every debated issues is a question of fundamental right and liberty; every demand is a question of fundamental right of liberty.

3. **Question (Mr. Asish Kumar to Dr. (Mrs.) Erimma Gloria Orie):** Firstly, would like to know the status of the recent Boko Haram trafficking highlighted in the news headlines in which about 300 Nigerian girls were trafficked. What happened to them? Secondly, should we bracket it under trafficking or kidnapping?

Answer (Dr. (Mrs.) Erimma Gloria Orie): The question of Boko Haram relates to the law of trafficking in Nigeria and thus can be bracketed under trafficking.

Observations of Chairperson Hon'ble Mr. Justice Manmohan

The Chairperson **Hon'ble Mr. Justice Manmohan** in his concluding remarks observed that human trafficking is an international problem. There is a country from where people are being trafficked to a destination country and in the midst there is a transit country. About 800 thousand people are trafficked every year and thus it can have national and international ramification. The Chairperson also spoke on the difficulty in deporting back the trafficked victims to their countries which we do not have good diplomatic relationship like in the case Burma (Mayanmar). Speaking on affinity of national laws with international laws, he said, every State has its own domestic laws and every State has its own priorities and limitation on resources and its own peculiar way of dealing with the issues and we must respect them. However, at the same time keeping in view the international dimensional problems, whatever domestic law each country may adopt keeping in view its own peculiarities, it must ensure that it does not contravene the UN model of law.

Technical Session – VI

Saturday, February 14, 2015

04:15 p.m. – 05:45 p.m.

Venue: Seminar Hall, CLC

Trafficking, Trade and Migration

Chairperson

Hon'ble Ms. Justice Hima Kohli

Judge, High Court of Delhi

Co-Chairperson

Professor (Dr.) Parmanand

Former Dean, Faculty of Law, University of Delhi

Rapporteur

Mr. Neeraj Gupta

Assistant Professor, CLC

The sixth technical session of the Conference was the last session on the second day of the three day International Conference and it started with the introduction of the **Chairperson Hon'ble Ms Justice Hima Kohli**, Judge, High court of Delhi and **Co-chairperson Prof.(Dr.) Parmanand Singh**, Former Head & Dean Faculty of Law, University of Delhi by the Conference Director and Professor-in-Charge, Campus Law Centre, Prof.(Dr.) Usha Tandon.

The Hon'ble Chairperson, **Justice Hima Kohli** in her keynote address appreciated the presence of the audience and delegates in the conference and said that the theme of this session is of seminal importance. She highlighted that migrant workers are especial targets of human trafficking and forced labor, which have at their core, worker rights violations and a lack of labor standards and worker protections. One of the biggest factors underlying the vulnerability of migrant workers are the actions of unscrupulous labor brokers. She instructed the presenters to follow the time allotted to them and be brief and crisp throwing their main arguments, so that there should be sufficient time for a fruitful discussion after the presentations are over. This brief address was followed by handing over of the mike from Chairperson to Co-Chairperson for introducing the speakers of the technical session.

The Co-Chairperson, **Professor (Dr.) Permanand Singh**, while introducing the speakers of the session made certain important observations. He suggested that the papers written for the Conference should be compiled in the form of a book so that future generations can also benefit from a Conference of this nature. He appreciated the efforts of the researchers in

introducing concrete ideas to eliminate the problem of trafficking. He also emphasised on need of empirical research over library based research as the hard realities come out only through empirical research.

After a brief introduction of all paper presenters and the core areas of their papers, the mike was handed over to the first speaker of the session.

The first speaker, **Ms. Sarah Angeli, Oznam Scholars Program, St. John's University, USA** spoke on "Centre of Conscientization: A study on Preventive Method against Child Trafficking in Jharkhand". She started her discussion by describing the term 'Conscientization' as an educational process in which a person is made to learn about worldly affairs by explaining the relevance of such phenomenon on his or her life. The presenter made a presentation based on an empirical study of child trafficking in the Lohardagga district of Jharkhand, India. The reasons for choosing Lohardagga were mass poverty, illiteracy and tribal composition of the population in the area. She explained the relevance of education and counselling in eliminating trafficking. She also emphasised the role of social institutions such as schools, temples, churches, village *Panchayts* etc. in creating awareness against child trafficking. She explained that there are causes leading to child trafficking from Jharkhand, such as Naxalism, lack of educational facilities, poverty, domestic violence, high dropout rates in schools and alcoholism.

She suggested that there is a need to make people aware about the menace of trafficking. They should be counselled and made aware about the pros and cons of migrating from one place to another so that they can take an informed decision. This is the area in which social institutions can play a pivotal role. She concluded her presentation by saying that ultimately individuals are masters of their own life and they should be given the freedom to take decisions on their own.

The second speaker, **Miss Sandhya Kumari, Research Scholar, Faculty of Law, University of Delhi, India** spoke on "Intra-National Trafficking of Children for Labour: Lived Experiences of Children from Jharkhand". She explained that her presentation revolves around migration of children from poorer regions of India towards richer regions. She explained that migration of people of Jharkhand to other richer regions of the country is a long standing phenomenon due to economic reasons. However, Naxalism, natural calamities and political instability in the state have also contributed to this phenomenon. She explained that there are various means by which trafficking of children takes place. Most of the children or their parents are lured, some of them are given assurances of better lifestyle and some are also kidnapped. Apart from this, self-driven migration among children is also present. She added that Delhi works as a transit as well as a destination point of trafficking. Most of the children are employed as domestic servants, factory workers or waiters in small



food joints. She also laid emphasis on the point that most of the children want to go back to their native place and get educated. There were also a few children who wanted to be a part of trafficking elimination mission. She suggested certain measures to combat child trafficking which include proper educational facilities, implementation of laws and active role of civil society.

The third speaker of the session **Dr. Shabnam Mahlawat, Assistant Professor LC II, Faculty of Law, University of Delhi**, spoke on “Migrant Rights and Protections for Human Trafficking”. She emphasised the point that trafficking is an international phenomenon and it is a multi-billion dollar industry. However, the nature of trafficking differs from region to region. In some places it is done for forced labour, in others for sexual demands. The nature also changes from time to time. Now new reasons are emerging for trafficking such as marriage, organ transplant etc. She also emphasised on the aspect that it is not only the victims of trafficking but also common citizens who suffer due to illegal migration and trafficking. The trafficked persons take up the jobs meant for natives and also live in unhygienic conditions etc. The highlight of her presentation was the argument of application of the ‘Common but Differentiated Responsibility’ – an environmental law principle – for eliminating the practice of trafficking at international level.

The fourth speaker **Miss Chintu Jain, Assistant Professor, Llyod Law College, Greater Noida, India** discussed the issue of “Human Trafficking: Human Rights Perspective”. She highlighted that trafficking is the modern form of slavery and it has become a new mode of earning money by subjecting humans to various forms of torture. She mentioned that in the modern world trafficking for the purposes of organ trade has taken precedence over many other purposes. According to her various tools such as withholding the passports, identification papers, threat of prosecution for illegal migration are used to exploit innocent people. The nexus between traffickers and a few medical industry people leads to undercover trafficking of humans which is in blatant disregard of human rights of the victims. The solution, according to her, lies in guarding international boundaries of countries.

The fifth and final speaker of the session **Ms. Savi Nagpal, student, Campus Law Centre, University of Delhi**, spoke on “Trafficking of Women: Socio-legal Contours”. She emphasised that trafficking is as real as earth, water and air. Majority of the victims of trafficking in India are women who are engaged in prostitution. The majority of these women are minor girls and the numbers are growing day by day. She raised the issue of neglect towards the victims of trafficking. This neglect is visible not only in the case of state machinery but also in case of civil society. She emphasised that the root cause of trafficking is directly related to poverty. She explained the paradox that men do not like to be a slave but likes the servitude of slavery. On the issue of prostitution she explained three models to deal

with the issue, which are suppression, regulation and abolition. However, all the models will remain infructuous until women are not empowered. She also raised the issue of rehabilitation and reintegration of the victims in the society and societal apathy towards victims. The apathy is visible in police action, judicial inaction as well as society thoughts.

Questions and Answer Session:

The question and answer session also proved mind boggling as various interesting question were raised and the answers were also very interesting.

1. **Question Dr. Morshidul (Bangladesh) to Sarah Angeli (USA):** Is providing education sufficient to eradicate trafficking?

Answer: Sarah Angeli: Education alone cannot eliminate trafficking. We need to provide masses with basic conditions of life. However, education plays an important role in taking an informed decision and make informed choices.

2. **Question Dr. (Mrs)Erimma Gloria Orie to Dr. Shabnam:** How an environmental law principle of CBDR can be applied for eliminating trafficking?

Answer: Dr. Shabnam: Certain countries have more responsibility than others. Poverty stricken countries needs to be supported by the developed nations. If people of one country are economically self sufficient in that case the cases of trafficking are bound to reduce. Vice versa, if there is poverty in neighbouring regions of a developed country in that case at one point of time or other it will definitely affect the developed country as well. So trafficking should never be considered as a domestic problem of any country.

3. **Question Prof.(Dr.) Parmanand Singh to Savi Nagpal:** How would you respond to the argument of legalisation of prostitution as has been given by various feminist scholars on the ground of freedom of choice?

Answer Savi: If a women opts for prostitution as a profession for her life in such case the future generations of her and particularly her children also suffer due to such decision. Such children are subjected to various stigmas in the society and it becomes difficult to rehabilitate and reintegrate them into the society.

Comment: Prof.(Dr. Parmanand Singh) : Thus the freedom of choice is there but one has to respect the societal values.

4. **Question: Saurabh Gupta to Sandhya Kumari:** The Prohibition of Child labour law allows a 14 year child to work in food joints, is it wrong?

Sandhya: The same law also regulates the working hours, leisure time and other things in such cases. No heed is paid to these regulations. It is up to the civil society to come forward and help these children and eliminate any form of trafficking.

Observations of Chairperson
Hon'ble Ms. Justice Hima Kohli

The Chairperson **Hon'ble Ms. Justice Hima Kohli** remarked that the papers presented in session were not exclusively on trade, migration and trafficking. The other issues relating to the broad theme of the conference were also presented. She told to the audience that trafficking is an issue which is very close to her heart and it's an issue which is not only very important but also needs a lot of attention from our society. She stressed that we need to focus on issues as to what is required to prevent this menace. We know that there are particular states in India which are more affected by trafficking than others e.g. West Bengal. The focus should also shift on other states too which are facing this problem. One also needs to look at both intra national and international trafficking and prevent both. These days, she highlighted, that we are also seeing trafficking for organ transplant and few instances have been highlighted by the media. There is a need to know as to why migration is taking place and also the places from where workers migrate to the places where they immigrate. One has to take a holistic approach to curb this menace.

Technical Session – VII

Sunday, February 15, 2015

09:30 a.m. – 11:15 a.m.

Venue: Seminar Hall, CLC

Religious, Traditional Practices and Ritual Servitude

Chairperson

Hon'ble Mr. Justice Rajiv Sahai Endlaw

Judge, High Court of Delhi

Co-Chairperson

Professor (Dr.) Usha Tandon

Professor -In-Charge, CLC

Rapporteur

Mr. Shourie Anand Singh

Assistant Professor, CLC

The seventh Session of the Conference and the first session of third day of the Conference started with the introduction of the **Chairperson, Hon'ble Mr. Justice Rajiv Sahai Endlaw** by the **Co-Chairperson, Professor Usha Tandon**, In his keynote address, the Chairperson highlighted the fact that inspite of trafficking being recognized as a human right violation nearly sixty years ago in the Universal Declaration of Human Rights and as not confined to any particular country but prevalent across international borders and inspite of widespread steps taken since then, has rather than being controlled, grown and spread by leaps and bounds. He opined that just like so many diseases afflicting humans, the solution thereto appears to be not in cure but in prevention. Just like the medical doctors advise us to lead a healthy life by exercising, regulating diet, meditation, to prevent diseases, we have to find out what is the healthy life to prevent the disease of human trafficking, particularly of women and children. He elaborated further that just like in case of any other disease, we have to first understand the disease, similarly to prevent trafficking we have to find / understand reasons therefore and in which respect the session on Religious, Traditional Practices and Ritual Servitude was the prognosis and most important session of the conference. With these remarks he invited the first speaker to present the paper.

The first speaker, **Professor Sheryl Buske, Law Lecturer, Faculty of Law, University of the South Pacific, Fiji**, presenting her paper titled "Pigs, Mats & Kids: Child Trafficking in the South Pacific in the Name of Custom" brought to the attention the practices of human trafficking in Pacific Island Countries. She gave a deep insight into the Plural Legal System that exists in such areas, which consists of the state legal system and the customary law

(Kustom). She told that South Pacific has a dominant customary system which is also recognised by the formal legal system. She talked about the unimpeachable authority of the chiefs, in the customary law, where nothing can practically be done without the permission of the Chief. This creates a dominant position of the chief, superior even to the legal system. The Chief is supposed to maintain peace and harmony. If there is a dispute the Chief resolves it but if criminal charges are brought, the court is requested to promote reconciliation and facilitate a settlement according to custom. She threw light on the long standing custom practice in the island in which the offender's family gives pigs, mats and children, usually young girls, as compensation, or restitution, to the family of the victim in the cases where a great bodily injury or death is caused. She considers this a form of trafficking. This deep rooted custom is permitted and therefore accepted by the legal system in a sense that legal system can't enforce its orders. She cited a case of PPv. Nawai, in which a drunk driver killed a young woman. The driver was required to pay a young girl along with rice, salt, cash money, etc. She illustrated another case which related to Sexual Assault in which the offender's family was required to give the victim's family a child. According to her the absence of proper police and court system gives rise to this form of human trafficking.

The second speaker **Khushboo Anand, Ph.D Scholar, Faculty of Law, University of Delhi, Delhi**, presenting her paper titled "Trafficking of Women under the Guise of Marriage" discussed a form of trafficking in which the practice is done under the guise of marriage. She spoke about "bride trafficking" which, according to her, is an inappropriate name as the women who is involved in trafficking is not in reality a bride, she is not actually married. According to the speaker the practice is prevalent due to the demand and the supply chain. The factors involved are skewed sex ratio, gender inequality, the caste and the gotra system, economic inequality between the source and the destination area. At the supply side the main reasons are poverty, unemployment, illiteracy, gender inequality and dowry demand. Then there is also the aspect that most of the trafficking is done with the consent of the parents of the girl. There are thousands of women who are displaced from their homes and caught up in the bondage of slavery- physical, mental and sexual. These women generally find no means to escape and no path of returning back to the normal lives. The speaker is of the opinion that each one of us has got the responsibility to spread awareness in this regard. All is not 'ok' behind the veil of marriage, we need to revise the existing legal framework, the judiciary must play a pro-active role, registration of marriage must be made compulsory, welfare programs must be properly implemented. Along with this, the rehabilitation of such women must be properly done in order to ensure that they are not trapped again in the vicious cycle of demand and supply. She suggested that there should be a central nodal agency to prevent trans border trafficking.



The Hon'ble Chairperson informed the House that the Supreme Court of India is seized of the matter through the case of Prajwala and is working with NALSA to work out some guidelines and regulations. He emphasised that laws are in place but what is lacking is implementation.

The Third speaker **Namrata Gogoi, Assistant Professor, National Law University and Judicial Academy, Assam, India**, presenting her paper titled "Tradition as Sanction to Human Trafficking: A Look at Early Practices and Rituals" focused on certain institutions and traditions which are unique to the Indian society. She talked about sacred prostitution in the medieval period where the girls were dedicated to serve in the temple and the priests, known as the 'temple dancers'. The Devdasi system, was known by different terms in parts of southern India and Maharashtra. This ritual servitude had religious sanction. Here minor girls are dedicated by their family to serve in the temples for life after they have gone through a ceremony that signifies their union with the temple divinity. Once the girl has reached puberty, any well-to-do man may procure her services in return for generous donations to the temple. Since these practices have religious sanction, they have continued till the modern ages. There is a network of power and legitimacy that connected the temple and the palace. Though the Devdasi is considered to be married to God yet she could bear child, own land which she got as land grants which again interestingly devolved to female heirs.

The speaker established the link between these traditional practices and the modern day prostitution. She also talked about various efforts to do away with the system by citing the example of Anti Nautch campaign. Then she went on to explain how there are various clans/tribes in India who follow prostitution as a means of livelihood and each family gives up one daughter for prostitution but on the other hand protect their daughter in laws and wives and maintain their chastity. She cited the example of Domares of Andhra Pradesh, Raymats of Rajasthan, Bedis of Madhya Pradesh and questioned where are several State laws prohibiting them?

The fourth speaker **Nidhi Mutreja, Assistant Professor (Law), Vivekananda Institute of Professional Studies, New Delhi**, presenting her paper titled "Bride Trafficking in North India: A Socio- Legal Study" began with mentioning the intense demand for marriageable girls in states like Punjab, Haryana, Uttar Pradesh, Rajasthan. The desperation according to her was evidently seen in the General Election 2014 where the slogans such as 'Bahudilao Votepao' were raised. The reason she stated were skewed sex ratio, preference of son over daughter which is mainly due to the elimination of women from most economic activities, dowry demands, patriarchy, the notion of izzat attached to women, etc. The lack of suitable matches for the purpose of marriage and procreation have led the men to adopt practice of bride trafficking, purchasing bride is seen as an easy and suitable measure for tackling this



gender imbalance. These women are neither respected nor trusted, they are only used for sexual purposes and no relationship as such exists in the so called husband and wife. Often known by names like Paro(outsider), Mol Ki(of price) , Jugaad (temporary arrangement) Biharan(from Bihar), they are not only exploited at home by the husband and his relatives but also outside home. Another practice prevailing in Haryana is the old practice of Karewa in which the widowed women is prevented from marrying anyone of her choice outside home. This is to ensure that the family's property remains in the family. Law is ineffective and unsupportive for these women. The marriage of Paro or Mol Ki does not have any customary or social sanction. They occupy a low social position. They come overnight and there is no evidence of marriage. They raised the question as to what is the legal status of these women in marriage? There are no specific laws dealing with bride trafficking. It is broadly covered under the provisions of the Indian Penal Code, 1860, under offences namely, kidnapping, abduction, kidnapping of girls for compelling her to get married etc. The Immoral Traffic (Prevention) Act, 1956, Prohibition of the Child Marriage Act, 2006, Child Labour (Prohibition and Regulation) Act, 1986, Juvenile Justice (Care and Protection) Act, 2000 are also ineffective for the same. She said that the law is not focusing on rehabilitation at all. And the primary responsibility lies on the state.

Question-Answer Session:

The Chairperson, **Hon'ble Mr. Justice Rajiv Sahai Endlaw** started the question- answer session sharing a positive development stating that there have been instances where the cross cultural marriages between Haryana and Bihar have had positive effects and brought the two states (people) closer to each other and they are now also sharing their skills with each other but he said thses instances are very rare.

1. **Question: (Professor (Dr.) Donald K. Anton to Professor Sheryl Buske),** In case of a contradiction between Customary law and Positive law in the Pacific Island, which one must prevail?

Answer: [Professor Sheryl Buske], The customary law has been prevailing in the Pacific Island. The decision of the Chief based on customs prevails over and above other mechanisms, this is because everyone complies to what the Chief says.

2. **Question: (Professor (Dr.) Usha Tandon to Professor Sheryl Buske),** Whether the Legal System of the Pacific Island recognises the command of the chief?

Answer: [Professor Sheryl Buske], The Legal System recognises the custom and sometimes is required to accept it as there is no other choice with them because they can't enforce the legal system.

3. **Question: [Emad Daoud to Khusboo Anand],** Is it required by Indian law to document the marriage?

Answer: [Khusboo Anand,] In case of the bride trafficking no ceremony takes place, no clergymen/pandit are involved, hence no documentation of the marriage is there.

Hon'ble Mr. Justice Rajiv Sahai, shared another aspect of the issue that is the problem faced by old and mentally ill people where the children or the care giver take these people to far off place and abandon them and they cant come back as they have no means or knowledge to do so.

4. **Question: (Mr Rahul Kumar to Ms Garima Singh)** Do you have any data as to how many brides have been trafficked so far? Also, are the brides only from Bihar or other states as well?

Answer: [Ms Garima Singh]A study made by the NGO Drishti Stree Adhyayan Prabodhan Kendra surveyed 10,190 households in Haryana and found that 318 women had been brought from elsewhere and married in the state. Also, effluent states of Kerala, Maharashtra and even Gujrat are also exporting the brides..

Observations of Chairperson **Hon'ble Mr. Justice Rajiv Sahai Endlaw**

The Chairperson, **Hon'ble Mr. Justice Rajiv Sahai Endlaw**, first of all summarised the main points of presentations by stating that Prof. Buske apprised us of the custom prevalent in South Pacific Islands, from where she hails, of compensating the victim of offences of bodily harm by *inter alia* giving children, usually young girls. She also informed that though they have a legal system but the same also permits customs to prevail and there being no mechanism for enforcing / implementing laws. The other Speakers enlightened all of us about trafficking in the guise of marriage prevalent in different parts of India, with Prof. Gogoi giving us the perspective of the Eastern part of the country and Profs. Garima Singh and Nidhi Mutreja with emphasis on the Northern States of Haryana and Bihar and Prof. Anand giving a general perspective in this regard.

He happily appreciated the keen participation of the other delegates attending the conference and faculty members and students in the session, with frequent questions being posed to the Speakers. He enlightened the audience by telling that he had during the said inter-actions, also drawn attention to the fact that though traditional trafficking was of whole human beings but now has spread to trafficking of parts of the human beings in the form of trade in organs. He had also drawn attention to the aspect and which none of the other Speakers had drawn attention to, of old dependant parents and family members of unsound mind being deceitfully abandoned at religious places with no means to get back to their residences, in the name of having opted for 'Vanwas'. He had also shared with the participants his personal experience of the benefits which at least a small cross section of the

society has reaped from what was originally commenced as trafficking. He had informed that though owing to the skewed sex ratio in the State of Haryana, brides were being brought from Bihar but the same also forced an inter-action between the residents of two States who otherwise are so dissimilar and which has ultimately resulted in both learning of the virtues of the other and benefiting there from.

He shared his personal conclusions from the session that it is not as if those indulging in religious, traditional practices are not aware of the same amounting to trafficking. The said religious, traditional practices and rituals are nothing but a name given by the society to legalize what is otherwise illegal and which they are forced to do out of various compulsions. To him, the root cause of trafficking is inequality amongst family members, with some family members being stronger and exercising control over others and the weaker ones being subjected to trafficking in the name of religious, traditional practices and rituals. In his view, unless all family members are placed at par, trafficking in the name of such rituals / practices shall continue. One suggestion given was to make laws for equal holding and distribution of the family wealth and income so that the inequality amongst the family members is removed.

While wishing CLC "all the best" in future, he expressed the hope that under the stewardship of Professor Tandon, the Director of the Conference, the conclusions drawn from the conference will be properly documented and appropriate suggestions will be made to the concerned authorities.

Technical Session – VIII

Sunday, February 15, 2015

11:30 a.m. – 01:15 p.m.

Venue: Seminar Hall, CLC

Role of NGO's, Civil Societies, Administrative Machineries, and Police in Combating Human Trafficking

Chairperson

Hon'ble Ms. Justice Indermeet Kaur

Judge, High Court of Delhi

Co-Chairperson

Professor (Dr.) Donald K. Anton,

Professor, Griffith University Law School, Australia

Rapporteur

Mr. Neeraj Kumar

Assistant Professor, CLC

The Eighth Technical Session of the conference started in the morning on 15th February, 2015 with the introduction of the **Chairperson , Hon'ble Ms. Justice Indermeet Kaur**, Judge, High Court of Delhi and **Co-Chairperson, Professor (Dr.) Donald K. Anton**, Professor, Griffith University Law School, Australia by Professor (Dr.) Usha Tandon.

The Chairperson, **Hon'ble Ms. Justice Indermeet Kaur** expressed her pleasure in coming back to the faculty. In her keynote address she highlighted that human trafficking is the worst form of exploitation with intent to make sheer profit. She further stressed that role of NGO's, Civil Societies, Administrative Machineries, and Police in Combating Human Trafficking is very important. Considering the number of paper presenters and the time of the Session, she opened the floor for the paper presenters requesting them to confine to the main points and time limit.

The first presenter of the session was **Farjana Yesmin, Lecturer, Department of Law University of Chittagong, Chittagong, Bangladesh** and she presented her paper titled as "Enforcement of Procedural Justice in Combating Human Trafficking: An appraisal". She put emphasis on the role of procedural justice and combating human trafficking which is a very heinous crime. Procedural justice may ensure the making and implementing of a better decision relating to this crime with the active participation of the stakeholders i.e. victims, assembly works with the issue (national and international), researchers and experts as well as law enforcing agencies. Victimized group will feel affirmed, if the procedures that are



adopted treat them with respect and dignity, making it easier to accept even outcomes they do not like. It authenticates the authority of the lawmakers and ensures deliberate participation in the process by the stakeholders. Moreover, it emphasizes on the access to information relating to a projected decision and access to proper justice where rights are violated. Finally, she concluded that decision-makers should understand and identify public interest concerns while formulating policies for combating human trafficking.

The Second speaker **Dr. Archana Ranka, Head, School of Law, Devi Ahilya Vishwavidyalaya, Indore, India** in her paper titled “Some Recent Insights to Address Sex Trafficking of Children and Women in India” elaborated that India has legal provisions to counter sex trafficking of children and women in accordance with ITPA1986 (Immoral Trafficking Prevention Act, 1986) but the success in uprooting this menace is highly disappointing. NGO estimate 1500-6000 woman and children are trafficked in this sub-continent. Trafficking from north east is too high but it is often over looked particularly, reaching 600 girls or more from Assam alone. She told that in 2008 the Central Government launched an integrated plan of action to prevent and combat Human Trafficking, to reintegrate this segment of sufferers to main stream. But the States and Centre still appear to be too weak and non-sympathetic. She lamented that the new government has in fact showed no intention to fight out against this epidemic till yet.

Third presenter of the session were **Sonam Dikshit, LL.M. (Constitutional law), Symbiosis Law School, Pune, India** and **Shodhika Sharma, LL.M. (Human Rights), Symbiosis Law School Pune, India** and they presented their paper titled “Combating Human Trafficking with Special Reference to Women and Children” and they elaborated that India is a source, destination, and transit country for forced trafficking. While people in India are trafficked for multiple purposes, commercial sex remains the most dominant driver. There is also an alarming number of young children who get trafficked for illicit purposes. The Ministry of Home Affairs, Government of India, Department of Women and Child Development, National Commission for Women, Ministry of Social Justice, Ministry of Labour, the National Human Rights Commission and the National Aids Control Organization are some of the government bodies engaged in combating trafficking. Many NGOs in India like Shakti Vahini, Prerna, Prajwala, Sanlaap, STOP, HAQ etc. have also been working in this area. The Indian police is the most important institution in the struggle to eradicate trafficking. However, the role of police has been a subject of criticism owing to endemic corruption and ineffectiveness in curbing the menace. While trafficking in India continues to be on a rise, there are several reasons attributable for the inadequate response by administrative agencies in the fight against trafficking. She asserted that to address trafficking, the foremost requirement would be to give the crime a high priority in detecting it



and recognise the human rights violations of victims. The law enforcement agencies including both police and immigration authorities should be sensitized and trained on the issue of trafficking. Victim friendly procedures should be incorporated in the law. The trafficked victims should not be prosecuted. Police problems like understaffing, ignorance of law, lack of adequate infrastructure, lack of women police, lack of training of grass root level officers like sub-inspectors and constables should be solved. The vicious nexus between traffickers, police authorities and politicians should be broken. The issue of missing persons and its link to trafficking should be prioritized by police. The system of nodal officers on anti-trafficking in all the states should be linked with NGOs in India. Community policing techniques like social surveillance should also be encouraged. A National level Nodal Agency to monitor trafficking in India should be established. While police and NGOs should work in partnership, effective social and economic rehabilitation schemes for victims should be provided by government agencies. Corporate Social responsibility should be tapped in to raise funds.

Fourth presenter **Dr. Ajinkya S. Dagaonkar, Advocate and Executive Member, The Bar Association of India, New Delhi and Visiting Faculty, University Teaching Department - School of Law, Devi Ahilya University, Indore, Madhya Pradesh, India** presented a paper titled as “Combating Human Trafficking: Down to Earth Realities in Enforcement of Laws in India”. He put emphasis on the down to earth realities in enforcement of laws in combating human trafficking in India in fast developing and emerging challenging trends especially in multidisciplinary perspectives and approaches. There is general awareness of combating human trafficking all over the world including India, but not adequate protection of the rights and enforcement of laws. In India, human trafficking especially in Women and Children is widely spreading which is rooting now towards the third stage concrete syndrome. Even sex terrorism is spreading. These heinous crimes need to be combated earliest starting from zero to hundred with well planned International and National multidisciplinary co-operative efforts by the Governments with the help of Educational institutions, Non-Government Organisations and the like. He praised the role of Judiciary of India that has all along taken a great activist role and who has truly been the torch bearer in this regard in interpreting different constitutional rights by considering the national and International laws relating to Combat Human Trafficking especially in Women and Children.

The fifth and the final presenter of the session **Ms Priti Rana, Ph.D Scholar, Faculty of Law, University of Delhi, Delhi, India** presented a paper titled “Human Trafficking: A Legal Perspective with Special Reference to India”. She asserted that trafficking of human beings is a global phenomenon which has gained momentum in recent years. Each year, millions of persons are trafficked both domestically and internationally. According to



UNODC.(2011),Global Report on Human Trafficking in Persons, trafficking in persons, a 9 billion USD industry, is estimated to be the fastest growing enterprise of the 21st century. This crime comes at an incalculable human cost and represents one of the most shameful facets of the modern world. Unsurprisingly, the majority of victims of human trafficking are women and children, most marginalised segments of society in developing countries. Trafficking of women and children is one of the gravest organised crimes, extending beyond boundaries and jurisdictions. Trafficking in persons for labor and/ or sexual exploitation is a widespread and serious problem in India. India is home to over 14 million victims of human trafficking.

Questions and Answer Session:

1. **Question (by Mohammad Peter Islam from Bangladesh to Farzana Yasmeen & Sonam Dikshit):-** In Bangladesh police is not appointed without money and police is taking money from the traffickers and police without taking money does not register a case against the traffickers and in certain cases police does not recognize government authorities and any police authorities as well. If police doesn't take any action against the traffickers what would be the consequences of ongoing human trafficking?

Answer: (Farzana Yasmeen)- I know the actual scenario of the police governance in Bangladesh and I don't think that the whole police department is corrupt but there are certain police officers who are corrupt and everyone should come forward to combat human trafficking and if the police does not act against the traffickers, some of them including you as a responsible citizen as a part of procedural system should also come forward to combat human trafficking in Bangladesh.

2. **Question (by Mayank Dev Mishra from Bihar University to Farzana Yasmeen):-** That in the cross border trafficking from different countries, traffickers are provided the short distance shelter house and safe house but what you suggest for the traffickers protection within the Nation, because there are various ramification and threats for the trafficked person and their parents and family members and other implications than how will you say that there is a legal decision of those issues?

Answer:- (Farzana Yasmeen)- I suggest safe house for the trafficking persons and immediately they should be provided legal assistance and protection by the Government institution and agencies and care and treatment should be provided to the trafficked person and police should record their statement immediately after taking them to the safe house in order to start the adjudicatory process. We should not fear from threats and should help trafficked person.

3. **Question (by Dr. (Mrs) Erimma Gloria Orie, to Priti Rana) :** Last speaker advocated for setting of separate special courts for trafficking, question is not for the availability of



courts but the speed of dispensing justice by courts and in that case there would be multiplicity of courts for every offence like trafficking etc. and that would slow down the delivery of justice because of so many courts and tribunals?

Answer:- (Priti Rana)Yes, there should be separate courts for taking cognizance of such specialized offences in order to deliver justice faster, effectively and speedily and that is the need of hour and those separate courts would not slow down the dispensation of justice.

Observations of Chairperson Hon'ble Ms. Justice Indermeet Kaur

The Chairperson, **Hon'ble Ms Justice Indermeet Kaur** observed that we know that trafficking is a major problem and it seems to be growing though we all are geared up to fight it. Not only is the girl child trafficked but the male child is also trafficked. She questioned that even though we have the government and the NGOs trying to tackle this problem but are they doing their job well? We have many legislations to prevent this menace starting with Article 23 of our Constitution to important central legislation to bring in clarity and uniformity in the law as various states had different provisions. Yet we see a lot of cases of trafficking coming up. The law he thought also lacks teeth and the punishment provided is woefully inadequate which give a chance to the judge to release the offender on bail and the we see habitual offenders coming up. She emphasised the will to implement the law and clarified that when she talked about implementation it means the government and it is the police which plays a major role. Without the police, she opined, we can't do any effective work. Where the police is good and does its work the results are efficient and good but where it does not do its work there is a negative outcome. Sometimes we see that the policemen lack in training and they are not able to handle such situation sensitively. So training is important and it's important to curb corruption also. She regretted that everyday we have some programme or the other to tackle this problem, yet it is rising. She concluded by saying that we need to put in a cohesive effort with the Government, NGO'S all coming together to share information across borders and put in every effort to combat this problem.

Technical Session – IX

Sunday, February 15, 2015

02:15 p.m. – 04:00 p.m.

Venue: Seminar Hall, CLC

Rehabilitation of Trafficked Victims: Challenges

Chairperson

Hon'ble Mr. Justice Pradeep Nandrajog

Judge, High Court of Delhi

Co-Chairperson

Professor (Dr.) S.C. Raina

Professor, CLC

Rapporteur

Mr. Akash Anand

Assistant Professor, CLC

The ninth and last session of the Conference started with the introduction of **Chairperson, Hon'ble Mr. Justice Pradeep Nandrajog**, Judge, High Court of Delhi and **Co-Chairperson Prof S.C. Raina, Professor, CLC** by Prof. Dr. Usha Tandon, Professor-in-Charge, CLC.

The Chairperson, **Hon'ble Mr. Justice Pradeep Nandrajog** described this session as the last lap of the relay race and with these remarks started the session. In his keynote address he spoke of the theme of the conference and related to the concept of “service without self” of the GITA and then further said that in jurisprudential sense it could be explained as the “theory of objectification” given by Emmanuelle Kant. According to him objectification of human beings is the biggest crime and is violation of human rights. He compared the act of stealing a bread and stealing a kidney and affirmed that if the same reason justifies both the acts then one person is treating the other as an object and hence the biggest crime of objectification. He also said that it would be the anchor session to discuss not the causes of human trafficking but the way forward to combating it.

The first presenter, **Emad Daoud, American University in Cairo, Egypt** presented his paper titled “Human Trafficking of Africans in Egypt: What can be done?” and illustrated several forms of human trafficking crimes committed in Egypt. According to him one involves the trafficking of Egyptians to countries outside Egypt –mainly for sexual exploitation, and this is a crime that receives major attention from the Egyptian authorities; while another form of trafficking involves forced sexual workers from east Europe to work in Egyptian nightclubs and underground brothels. Another involves the network of Egyptian

traffickers who kidnap, torture, and deal in African foreigners. These Africans have either arrived to Egypt willfully, or have been kidnapped by traffickers and forced to enter Egypt during the trafficking process. Some of them have aspired for a better life in Europe or Israel; while others have never thought of it. He also pointed out that Egyptian anti-trafficking law reflects a great attempt in drafting a comprehensive law, however until date the implementation of this law continues to be inadequate as many gaps included in the law have rendered a failure in incriminating anyone who was involved in trafficking of Africans in Egypt. He argued his paper on the issue that a tailored definition becomes inclusive and not exhaustive to include other factors responsible for the crime.

The second presenter, **Reena Gupta, Adjunct Faculty, National Institute of Criminology and Forensic Institute, Rohini and Guest Faculty at Guru Gobind Singh University, Dwarka, Delhi, India** presented her paper titled “Prostitution - A Modern form of Slavery and Challenges before Rehabilitation” and attempted to analyse the forms of prostitution and sexual violence from the ancient times to the present era as sexual violence and prostitution is considered as the gravest forms of crime against humanity. The presenter focused upon the historical background of Immoral Trafficking Act, 1956 with the help of international instruments in this regard, especially with regard to the rights of women. The presenter described the causes of prevalence of these worst forms of crime from the socio-psychological aspect and the relevant provisions of Indian Penal Code 1860 and Immoral Trafficking Act 1956 to eliminate this evil from the society. She highlighted that Devadasis were respected in earlier times however with the change of time and society they are now treated as prostitutes.

The third presenter, **Ms. Aakriti Mathur, Advocate, New Delhi, India** presented her paper titled “Globalisation, Sex Industry Regulation and Vulnerability of Trafficked Woman: Challenges and Responses” and emphasised that one main area is to distinguish between trafficking and prostitution. According to her both prostitution and trafficking, woman are often used interchangeably or at least seen as having cause and effect relationship, the reality however is not as simplistic. While it is an undeniable truth that many trafficked women are forced into prostitution, the vulnerability faced by trafficked women depends significantly on the manner in which the domestic sex industry, to which they are trafficked is regulated. Thus to sufficiently identify and address the concerns of these women, it is imperative to understand the models of regulation of sex industry and appreciate the unique challenges each of these model poses. She said that there are three models of sex industry regulation, the criminalization and prohibition model, the legalisation and licensing model and the decriminalisation model and distinguished between them.



The fourth presenters, **Anjali Dileep and Chinmai Ajith, LL.B. students, National University of Advanced Legal Studies (NUALS), Kalamassery, Kerala, India** presented their paper titled “Rehabilitation of victims of human trafficking in India and challenges”. The first speaker of the two for this presentation made out that the victims of human trafficking often suffer from an array of physical and psychological health issues which mostly arise from the inhuman living conditions, poor sanitation, inadequate nutrition, and poor personal hygiene, cruel physical and emotional attacks from the traffickers, dangerous workplace conditions and general lack of quality healthcare. She emphasised that the victims who have been subjected to traumatic or abusive experiences must be given psychological support and it may include general counselling and trauma therapy. She also outlined that bride trafficking, ritual sex slavery and commercial surrogacy are three kinds of trafficking in India. She also pointed out that identification of the trafficked victim is an important area to be carefully exercised. The second speaker of this presentation highlighted the schemes of the government for combating human trafficking Ujwala, Swadhar, Kishori Shakti Yojana and Integrated Plan of Action to Prevent and Combat Human Trafficking. She also mentioned few landmark cases and among them was Vishal Jeet case and Prerna case which have given important decisions on human trafficking. She also highlighted the role of NGOs in rehabilitation and summed up the presentation with some recommendations.

The fifth presenter, **Ms. Neelam Tyagi, Assistant Professor, Amity Law School, Delhi, India** with her paper “Human Trafficking and Challenges to Rescue, Rehabilitation and Reintegration of Survivors” started her presentation with a brief description about the causes and types of human trafficking in India. She also pointed out the various laws and international instruments which cater to human trafficking. After mentioning few Indian Supreme Court cases on the issue, she said that we all know what is human trafficking and what are the causes of it but “what next” is the real issue. She then discussed a model for best practices to combat human trafficking. In the proposed model incorporated prevention which mainly related to awareness generation of the ills of human trafficking, rescue, rehabilitation and more importantly re-integration of the trafficked victim. Reintegration includes sending the victim back to her home and is often one of the greatest challenges for individuals because of the stigma attached to the sex trade. This model also includes “Repatriation” to provide support to cross-border victims for their safe repatriation to their country of origin. She also highlighted the obstacles that are making the rehabilitation ineffective.

Questions and Answer Session:

1. **Question (Shodhika Sharma)** Prevention and rehabilitation has the same problems attached to it. So how to move forward?

Answer (HMJ Nandrajog): YES, we all know that the same problems have been attached to both the measures and that is why the approach has to be multipronged and have our eyes on both sides of the problem.

2. **Question. (Khushboo Anand,)** Why do we not talk about reintegrating women into a married life?

Answer (HMJ Nandrajog): Urban society has moved ahead. People have started writing their relationship status on social networking sites. Sexual needs of women and also psychological needs are important here to discuss. There will be many who would be willing to be a partner but it will take time.

3. **Question.(Anisha)** Virginity and victims of human trafficking are taken different for the purposes of marriage. How to understand this?

Answer (HMJ Nandrajog): Absolutely right. It is what is called a funny situation. Hindi movies, the media has portrayed womanhood as purity.

4. **Question. (Ranbir kumar):** Can we stop human trafficking without prevention protection and prohibition and turn the focus towards 3Rs?

Answer (HMJ Nandrajog): It is always related to the allocation of resources. The main question then becomes whether we should allocate the resources to those measures which have failed till now or we look into other promising area. The 3Rs are such areas and more relevant now.

Comments by the Co-Chairperson, Prof. S. C. Raina

The Co-chairman observed that when we talk about rescue it is the biggest challenge and when we talk about integrating the NGOs then also the first information has to reach the police. Once the police is informed 3/4th of the traffickers are gone and we actually don't know where the information leak is happening. Now the police in order to show the raid, picks up the victims of the crimes and not the guilty. Then the judicial system begins the trail

of the victims and the law till now has not been amended to stop the trail of the victim themselves. It is an aspect of re-victimising of the victims. Secondly, there is no data base related to the victims as such. Therefore it results into under and over inclusion. There is no empirical data which can tell as to who are the victims of human trafficking because sometimes even the lost members of the society are taken as trafficked and that may not be the reality. Also it is for the state to take the cognizance of the rehabilitation of the victims. But how many homes has the state created especially for the trafficked victim?. The whole process of rehabilitation is completely disintegrated. Police of one state and the other has no coordination in tracing the victim as a domicile of the concerned state. Even if the victim is traced the families don't meet and the re-victimisation takes place. Till now we have no data on re-victimisation which is an important area to consider also.

Observations of Chairperson

Hon'ble Mr. Justice Pradeep Nandrajog

The Chairperson, **Hon'ble Mr. Justice Pradeep Nandrajog** said that "today we live in a knowledge based society. Thus, human dignity and human values are important. We need to anchor ourselves and see as to what is the way forward. We need to look into the fact as to what leads to human trafficking? Broadly there are four reasons systemic approach, patriarchal norms, societal reasons and economic reasons. By societal reasons lack of life skills, by economic, we mean lack of job skills and obviously the failure of the system to prevent trafficking is there. The concept of prosecute, protect and prevent, seems to have not worked that well. We need to focus on Rescue, Rehabilitation and Re-integration. By rehabilitation we mean the victim should be free from physical, social and psychological impact and her needs have to be identified. Only then we can reach the third stage to reintegrate the victim. Its not only the geographical movement of the victim back home but its actually the renewed reunion to the social unit."

Commenting on the rehabilitation of victims he said "we see that for rehabilitation and reintegration many challenges emerge. First is the systemic apathy. The system is not concerned due to lack of political will corruption, etc. The there is lack of sensitization which we need to focus on. And again re-trafficking needs to be prevented. We need to re kindle hope into the victims. We need to change our mindset. Society has a strong bias against the victim and the victim and her family is stigmatized. People refuse to accept her. The victim feels responsible and suffers from shame and low self esteem. Lack of life and job skills



compounds the problem. We can not have one size fits all solution. We need to create financial independence for them. Self help groups and cottage industries can be a way forward and as a society we can help by pledging to buy their products. We need to accept these victims as one of us and make them a part of our lives.”

So the way forward, he concluded, is -Rescue, Rehabilitate and Reintegrate as society has created this problem and not law and society has to rectify it too.

Summary of Discussions

CONCLUSIONS

1. No international convention, constitutional and statutory provisions can help eradicate this obnoxious evil with so many forms and shapes i.e. slavery, bonded labour and forced prostitution, unless they hit very hard on the root cause of the problem.
2. The root cause for trafficking is poverty compounded with illiteracy, large family and unemployment. Due to poverty the children are forced to work by their parents only. A very few livelihood options makes women and children easy targets of the organised criminal groups which exploits them in lieu of jobs and better life. Other reasons responsible for increase in human trafficking range from , personal circumstances like a dysfunctional home environment, industrialization, globalization, economic crises, economic decline and underdevelopment, etc.
3. Major forms of human trafficking includes prostitution, child trafficking, bonded labour and servitude, foreign labour exploitation and trafficking for organ transplantation.
4. Surrogacy as an assisted reproductive technology, securing children to infertile couple, has gained legitimacy as well as sufficient popularity across the world, but due to large scale unregulated measures, surrogacy has unfortunately become an new form of human trafficking as one of the glaring abuse of technology. Cases of abduction, forced confinement, bodily exploitation of women to be commercial surrogate mothers are reported from South Asian Nations as China, Nepal, Thailand, Myanmar and India. In Gujarat, infertility doctors along with leading Reproductive Law Attorney of California have been arrested on charges of human trafficking.
5. Bride trafficking is another upcoming form of human trafficking. The lack of brides for the purpose of marriage and procreation have led men to adopt practice of bride trafficking. These women are neither respected nor trusted, they are only used for sexual purposes and no relationship as such exists in the so called marriage. The marriage of Paro or Mol Ki are classic examples in this regard.
6. Plural Legal System that exists in certain areas of the world consists of the state legal system and the customary law. The dominant customary system is also recognized by the formal legal system where the chiefs exercise huge powers. A long standing practice exists in certain Pacific Islands in which the offender's family gives pigs, mats and children, usually young girls, as compensation, or restitution, to the family of the victim in the cases where a great bodily injury or death is caused. This is another form of trafficking.
7. There are several communities that have been following the practice of inducting their women into prostitution since pre-Independence days. Some of these tribes and

communities are the Bédias from Madhya Pradesh, Domares from Andhra Pradesh, Rajnats of Rajasthan, the Santhals from Orissa and Bihar. The family member's complicity in trafficking women is rooted in the belief that it is a tradition being followed from time immemorial.

8. The trafficking of women and children from rural to urban areas for exploitation in marriage, labour and in commercial sex reflects both economic differentials; real as well as perceived, between rural areas and cities, and between supply and demand states. There are also additional patterns of seasonal movement for labour in agriculture. While it is true that poverty alone is not the cause behind trafficking and that other factors such as culture, education, etc. too contribute to it. At the same time it is equally true that almost all the women, girls and children trafficked into Haryana and Punjab are from poor family.
9. Despite the fact that Democratic Republic of Costa Rica enjoys a steady economic growth and is a politically stable country in Central America, the menace of human trafficking is still on a large scale. It is not enough just to make the laws and other measures to prevent human trafficking, it is also more important to make sure that these laws are implemented, particularly any punishment related to exploitation. Proper investigation and prosecution for human trafficking offenses and proper sentencing enforcements can help and deliver the protection that legislation has set off to do.
10. ILO prohibits forced labour yet for some time, it was felt that gaps existed and additional measures were needed. These gaps include five major areas:-
 - a. Effort to prevent, identify and prosecute cases of trafficking for labour exploitation lagged far behind those to combat trafficking for sexual exploitation.
 - b. The low rates of prosecution of trafficking offences.
 - c. Insufficient victim protection mechanism.
 - d. Insufficient cooperation between labour inspectorate and criminal law enforcement bodies.
11. India now is the source, destination and transit country for human trafficking primarily for commercial sexual exploitation and forced labour. There are about 4566 cases of human trafficking pending before the courts in India.
12. Trafficking of women and children from the North-East states of India and bordering countries like Nepal and Bangladesh is on increase.
13. In order to curb human trafficking in Nepal NGO's are constantly working on the issue and lot of work has been done to educate children to have awareness, etc.



14. The Indian legal system does not recognize “trafficking in person” as specific and separate crime. The Immoral Traffic Prevention Act, 1956 which is known as the main legal framework available to deal with the cases of trafficking only deals with the criminalization of prostitution and giving them punishment. This Act does not deal with prevention of prostitution or trafficking.
15. The Immoral Traffic in Persons (Prevention) Act, 1956 (ITPA) only penalises sexual exploitation or abuse of persons for commercial purposes. However, the terms ‘sexual exploitation’ or ‘commercial purposes’ are not defined in the Act. Thus, the ITPA does not specifically define trafficking and trafficker. Moreover, Section 10A of the ITPA treats the female victims of trafficking as ‘offenders’ who need correction in a detention centre.
16. Even after the incorporation of Criminal Law (Amendment) Act, 2013 which inserted a new Section 370A criminalizing trafficking and exploitation of trafficked person, there is no particular definition of trafficking. The exploitation of trafficked person as stated in Section 370A only covers sexual exploitation and not other forms of exploitation.
17. Various statutory laws in India define the age of child in contrast to each other. Thus, India should adopt the definition of trafficking in person as given by the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.
18. The Nigerian Penal Codes and NAPTIP Act do not have provisions for the protection of victims and or witnesses. A reading of Sections 9, 36, 37 and 45 of NAPTIP Act give limited protection since trial is conducted in public. For the prosecution of sexual offences generally the courts even in cases that the law does not expressly require protection always insist on corroboration. This is discriminatory against women and girls who are mostly the victims.
19. There is lack of proper implementation of existing laws having a bearing on curbing human trafficking. Proper investigation and prosecution of offenders of human trafficking is the need of hour.
20. There is a need for better coordination and cohesiveness among various scattered laws addressing the problem of human trafficking in different perspectives.
21. There is a lack of credible mechanism to rehabilitate the victims of human trafficking especially in the form of prostitution in India. Though there are reformation centers, rescue homes etc but when it comes to actual rehabilitation, it has failed miserably.
22. A gender based analysis is required to tackle the problem, as women are more valuable to being trafficked than men. More research works are needed to explore and redress the problem from feminist lense.

23. The imbalance of power and structural inequality between male and female is the root cause of female violence and as such is cruel terrorism against female, children, and socially weak.
24. Such a large scale and systematic endeavour of enslaving so many individuals cannot take place without the involvement of law enforcing agencies. It is no secret that a few morally corrupt law enforcement officers act in concert with these traffickers, veiling them from law and covertly encouraging their activities.
25. Combating women trafficking is impossible unless, a holistic and affective mechanization operates both at national and international level. There has been many treaties and agreements throughout communities of nations and international organizations, such as UN, to eradicate female violence. This international solidarity act showed much visible success. There is a reason for emphasizing the need for solidarity of community of nations. Currently, the statistics of human trafficking that are taking place in Asia are very high. And it is a fact that providing an institutional strategy for carrying a legal binding force in Asia is quite behind compared to other continents.
26. Despite such alarming dimensions of intensity and spread, the prevalence of Human Trafficking has not been documented through research.
27. Prevention is the best cure to tackle human trafficking. The situation which makes a child, fall prey to inhuman conditions must be eradicated at all costs.

Recommendations and Suggestions

1. The Government should take serious measures to address the root cause of the problem. More avenues for employment should be created in the remote areas. People in such areas should be motivated to have small family, so that child is not seen a liability to be fed, as well as a source to earn for the family. Social protection mechanism should be strengthened.
2. Existing laws having a bearing on checking human trafficking should be properly and strictly implemented.
3. The Immortal Traffic in persons (prevention) Act, 1956 (IPTA) in India does not specifically define trafficking and trafficker. Moreover, Section 10A of the ITPA treats the female victims of trafficking as 'offenders' who need correction in a detention centre. Hence, these provisions under ITPA should be suitably amended.
4. India should adopt the definition of trafficking in person as given by the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

5. Special courts should be established to prosecute the trafficking cases in all states in India. To have a new designated court, similar to that of Child Welfare Committee, there should be one judge and two social workers and it shall have the same power as that of district and sessions judge. This will help in curbing the unnecessary delay, and would make the victim comfortable during the trial.
6. There is an urgent need to sensitize the officers and the police to deal with the victims of human trafficking who are mostly women, girls and children
7. Equal opportunity for women for education shelter, food, employment, relief from unpaid domestic and reproductive labour, are pre-requisite to stop women being trafficked.
8. Since trafficking of women and children from the North-East states of India and bordering countries like Nepal and Bangladesh, known as sex tourism, is on the increase and is a serious issue therefore it calls for special efforts both on the part of the law enforcement agencies and civil society to combat sex tourism.
9. The available laws cannot be said to have given any result in combating trafficking of women under the guise of marriage. The State government must take up a comprehensive and detailed study on the issue and data collection & build up mechanism to check trafficking.
10. While providing rehabilitation facilities to the victims and skill development, the victims should be provided such a skill that helps them acquire a better job in the society.
11. The reintegration of child soldiers should emphasize three components family reunification, community network, physiological support and education opportunity.
12. In Pacific Islands, efforts should be made to implement formal legal systems in a better way to prevent trafficking of girls in such areas.
13. Every States in Nigeria should enact laws on anti-trafficking and must align their policies with surrounding states and with international legal standards regarding trafficking.
14. Weak legislation in Nigeria has developed to a culture of impunity on the part of the traffickers as they find it very lucrative to remain in the trade and pay fine anytime they are caught. There is therefore need to review the anti-trafficking laws particularly against the backdrop of Nigeria's compromised rule of law. There is an imperative need for the harmonization of Nigerian legislation with international standards.
15. Government must develop prevention programs that can raise public awareness and encourage actions that protect women and children from this menace.



16. Many NGOs are doing good work in sensitizing the society, and the individual victims. The community surveillances to check the ongoing trafficking activities can be undertaken. Small women's groups can be established which will help and take care of women in the underprivileged societies, since women and girls are the most affected victims.
17. There should be a uniform national policy, mechanism and clear guide lines for proper Coordination and cooperation among the various States and Union agencies engaged in dealing with the cases of human trafficking.
18. A comprehensive legislation covering all aspects of human trafficking should be enacted.

CULTURAL EVENT

“Qawwali” is a form of devotional music that expresses the mystical Sufi practice of Islam in South Asia, mainly in areas of Afghanistan, Pakistan and India. The term qawwali comes from the Arabic word “qaul,” meaning “to speak” or “to say,” thus emphasizing the importance of words of these songs. A Qawwali evening, was organized by The Campus Law Centre for all the participants and delegates of the International Conference at the auditorium of the Campus Law Centre on 14th February and enthralled the audience.

All Qawwal parties led by young Qawwali maestros Hussain Brothers, Afreen and Kasif are successfully carrying forward the mission to safeguard the Qawwali traditions, handed over to them by their illustrious elders. Their voice which matched to percussion was perfect; the chorus was inspiring and at times the harmonium sounds were electric. The audience was spell bound and were enthralled by songs like Faya Kun, Mast kalandar and many other popular Sufi numbers. The hall was jam-packed everyone enjoyed to the fullest.

LIST OF PARTICIPANTS

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Chairperson, National Human Rights Commission,
New Delhi

Hon'ble Mr. Justice Arjan Kumar Sikri
Judge, Supreme Court of India

Hon'ble Mr. Justice Manmohan Sarin
Former Chief Justice, Jammu and Kashmir
High Court; judge, High Court of Delhi and
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Hon'ble Mr. Justice Pradeep Nandrajog
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Hon'ble Ms. Justice Hima Kohli
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Hon'ble Mr. Justice Manmohan
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Mr. Neeraj Kumar, Assistant Professor
Mr. Akash Anand, Assistant Professor
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Ms. Cheshta Dehiya, Assistant Professor
Mr. Mizum Nyodu, Assistant Professor
Mr. Parikshet Sirohi, Assistant Professor

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Mr. Sidharth Marwah, Student convenor

x. Cultural Event

Mr. Vinod Chauhan, Assistant Professor
Ms. Miyum Nyodu, Assistant Professor
Ms. Cheshta Dahiya, Assistant Professor

xi. Souvenir Committee

Professor (Dr.) Usha Tandon, Professor
Mr. Maotoshi Ao, Assistant Professor
Mr. Shourie Anand Singh, Assistant Professor
Mr. Sumit Nagar, Student Convenor
Mr. Sahil, Ghei, Student co-convenor

PROGRAM DETAILS

Inaugural Session International Conference

On

Combating Human Trafficking with Special Reference to Women and Children

13th February, 2015

10.45 a.m. - 11.45 a.m.

Venue: Auditorium, CLC

10.45. - 10.47 a.m.	Lighting of Lamp and Felicitation
10.47 – 10.55.a.m.	Welcome Address and Introductory Remarks Professor (Dr.) Usha Tandon Professor-In-Charge, CLC and Conference Director
10.55- 11.05 a.m.	Key Note Address Ms. Kim Haing, President, Korean Institute for Gender Equality, Promotion and Education
11.05.- 11.30 a.m.	Inaugural Address Hon'ble Mr. Justice K.G. Balakrishnan Chairperson, National Human Rights Commission, New Delhi
11.35-11.45 a.m.	Vote of Thanks Professor (Dr.) P.S. Lathwal Professor, CLC

Welcome Dinner

And

Cultural Event

For

International Conference

On

**Combating Human Trafficking with Special Reference to
Women and Children**

Dinner Venue:

Mumtaz Hall, Hotel Taj Palace

Sardar Patel Marg, Diplomatic Enclave, New Delhi

Date: 13th February, 2015

Time : 7.00 p.m. to 8.30 .pm.

Cultural Event:

Qawalli by Hussain Brothers

Venue : CLC Auditorium

Date: 14th February, 2015

Time: 6.00 p.m.to 7.00 p.m.

VALEDICTORY SESSION

International Conference

On

Combating Human Trafficking with Special Reference to Women and Children

15th February, 2015

4.00 p.m. - 5.30 p.m.

Venue: Auditorium, CLC

4.00 p.m. - 4.05 p.m.	Felicitation of Guests
4.05 p.m. - 4.15 p.m.	Welcome Address, Closing Remarks and Presentation of Conference Report Professor (Dr.) Usha Tandon Professor-In-Charge, CLC and Conference Director
4.15 p.m. - 4.25 p.m.	Address by Guest of Honour Mr. Mohan Parasaran Senior Advocate, Formerly Solicitor General of India
4.25 p.m. - 4.35 p.m.	Address by Guest of Honour Professor (Dr.) Donald K. Anton, Professor, Griffith University Law School, Australia
4.35 p.m. - 4.50 p.m.	Address by Special Guest of Honour Hon'ble Mr. Justice Pradeep Nandrajog Judge, High Court of Delhi
4.50 p.m. - 5.15 p.m.	Valedictory Address by Chief Guest Hon'ble Mr. Justice Arjan Kumar Sikri Judge, Supreme Court of India
5.15 p.m. - 5.20 p.m.	Release of Book by Chief Guest on " Gender Justice: A Reality or Fragile Myth " Edited by Professor Usha Tandon Foreword by Hon'ble Ms. Justice Gita Mittal Judge, High Court of Delhi Distribution of Certificates
5.20 p.m. - 5.30 p.m.	Vote of Thanks Professor (Dr.) S.C. Raina Professor, CLC
5.30 p.m. - 6.00 p.m.	High Tea

Glimpses of the Conference

Inaugural Session



HMJ. K.G. Balakrishnan lighting the lamp



(L-R) Ms. Kim Haing (on podium), Prof. P.S. Lathwal, Prof. Usha Tandon, HMJ K.G. Balakrishnan and Prof. A.K. Bansal

Inaugural Session



Felicitating of HMJ K.G. Balakrishnan



HMJ K.G. Balakrishnan delivering the Inaugural Address

Inaugural Session



Ms. Kim Haing delivering the Key Note Address



(L-R) Prof. Usha Tandon with H.M.J. K.G. Balakrishnan

Inaugural Session



Audience



Prof. Usha Tandon addressing the audience

UNIVERSITY OF DELHI

International Conference

Combating Human Trafficking with Special Reference to Women and Children February 13th - 15th, 2015

CLC Auditorium and Seminar Hall

Inaugural Address

Hon'ble Mr. Justice K.G. Balakrishnan
Chairperson, National Human Rights Commission

Guests of Honour

Hon'ble Mr. Justice Pradeep Nandrajog
Mr. Mohan Parissara
Professor (Dr) A.K. Basal
Mr. Kim Hwang
Professor (Dr) Donald K. Austin

Valedictory Address

Hon'ble Mr. Justice Arjan Kumar Sircar
Judge, Supreme Court of India



HMJ K.G. Balakrishnan (Centre) with distinguished guests

Welcome Dinner



(L-R) Mr. S.K. Gupta, Prof. P.N. Singh, Prof. S.C. Raina & Mr. T.D. Sethi



Distinguished guests at Hotel Taj Palace

Welcome Dinner



Delegates at Hotel Taj Palace



(L-R) Mr. Mohan Parasaran with Mr. T.D. Sethi

CAMPUS LAW CENTRE

UNIVERSITY OF DELHI

Welcome Delegates and Dignitaries
For International Conference

Combating Human Trafficking
Special Reference to Women and Children



Mr. Mohan Parasaran (3rd from right), HMJ Pradeep Nandrajog (4th from right) with delegates



UNIVERSITY OF DELHI

Welcome Delegates and Dignitaries
For International Conference on
Combating Human Trafficking
Special attention to women and children

(L-R) Prof. Usha Tandon, Mr. T.D. Sethi, Prof. B.T. Kaul, HMJ Pradeep Nandrajog and Mr. Mohan Parasaran



Mr. Mohan Parasaran (3rd from right) with distinguished guests

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Mr. Mohan Parasaran (Centre) with HMJ Hima Kohli (on his left) HMJ Rajiv Sahai Endlaw (on his right) and HMJ Sangita Dhingra Sehgal (R)

Welcome Dinner



Prof. Usha Tandon interacting with delegates



CAMPUS LAW CENTRE
UNIVERSITY OF DELHI
Welcome Delegates and Dignitaries
For International Conference on
Combating Human Trafficking
with Special Reference to
Migrant Workers and Children



Mr. Mohan Parasaran (Extreme right) with distinguished guests and delegates

Welcome Dinner



(R-L) HMJ Hima Kohli, HMJ Sangita Dhingra Sehgal with foreign delegates



Enjoying the food at Hotel Taj Palace

Welcome Dinner



Enjoying the food at Hotel Taj Palace



Enjoying the food at Hotel Taj Palace

Welcome Dinner



Student volunteers



Prof. Usha Tandon (centre) interacting with delegates

Technical Session



HMJ Mammohan Sarin chairing the session

Technical Session



(L-R) HMJ Manmohan, Prof. P.S. Lathwal



Prof. Donald K. Anton in Interactive Session

Technical Session



Delegate making presentation



(L-R) HMJ Manmohan Sarin, Prof. P.S. Lathwal

Technical Session



Delegates



Prof. S.C. Raina in Interactive Session

Technical Session



Felicitation of HMJ Aruna Suresh by Prof. Rajiv Khanna



Prof. Rajiv Khanna



HMJ Aruna Suresh

Technical Session



HMJ Aruna Suresh (centre) chairing the session



Delegates

Technical Session



Delegates



Delegates

Technical Session



HMJ Sangita Dhir (centre) chairing the session





HMJ Sangita Dhingra Sehgal

Technical Session



Dr. Gloria in Interactive Session



Delegates

Technical Session



Delegates



Technical Session



Prof. Usha Tandon in the Interactive Session



Delegates

Technical Session



HMJ Jayant Nath (centre) chairing the session with Ms. Kim Hang (extreme right)



HMJ Jayant Nath

Technical Session



HMJ Jayant Nath (11nd from right) chairing the session



HMJ Jayant Nath



HMJ Jayant Nath

Technical Session



Delegates



Delegates making presentation

Technical Session



Delegates



Felicitation of HMJ Manmohan by Prof. B.T. Kaul



HMJ Manmohan

Technical Session



(L-R) H.M.J. Manmohan, Prof. R.T. Kaul



H.M.J. Manmohan (centre) Chairing the Session

Technical Session



HMJ Manmohan



Prof. B.T. Kaul

Technical Session



Delegates



Delegates

Technical Session



Felicitating of HMJ Hima Kohli by Prof. P.N. Singh



HMJ Hima Kohli chairing the session



HMJ Hima Kohli

Technical Session



HMJ Hima Kohli



(L-R) HMJ Hima Kohli, Prof. P.N. Singh

Technical Session



Delegates



Technical Session



Delegates



Technical Session



Delegates



Felicitations of H.M.J. Rajiv Sahai Endlaw by Prof. Tandon



HMJ Rajiv Sahai Endlaw

Technical Session



HMJ Rajiv Sahai Endlaw chairing the session



Technical Session



HMJ Rajiv Sahai Endlaw chairing the session



Delegates

Technical Session



Delegates



Technical Session



(L-R) HMJ Indermeet Kaur, Prof. Donald K. Anton



HMJ Indermeet Kaur (centre) chairing the session

Technical Session



HMJ Indermeet Kaur chairing the session



Delegates



HMJ Indermeet Kaur

Technical Session



Delegates



Technical Session



Delegates



Felicitation of H.M.J. Pradeep Nandrajog by Prof. S.C. Raina



HMJ Pradeep Nandrajog

Technical Session



HMJ Pradeep Nandrajog chairing the session



Delegates

Technical Session



Delegates



Technical Session



Delegates



Cultural Events



Felicitation of Hussain brothers



Cultural Events



Qualli by Hussain brothers



Cultural Events



Audience enjoying cultural evening



Cultural Events



Audience



Cultural Events



Audience



Valedictory Session



(L-R) Mr. Mohan Parasaran, Prof. Usha Tandon, HMJ A.K. Sikri, HMJ Pradeep Nandrajog, Prof. Donald K. Anton and Prof. S.C. Raina



Felicitation of HMJ A.K. Sikri

Valedictory Session



Felicitatation of Mr. Mohan Parasaran



Felicitatation of HMJ Pradeep Nandrajog

Valedictory Session



HMJ A.K. Sikri delivering Valedictory Address

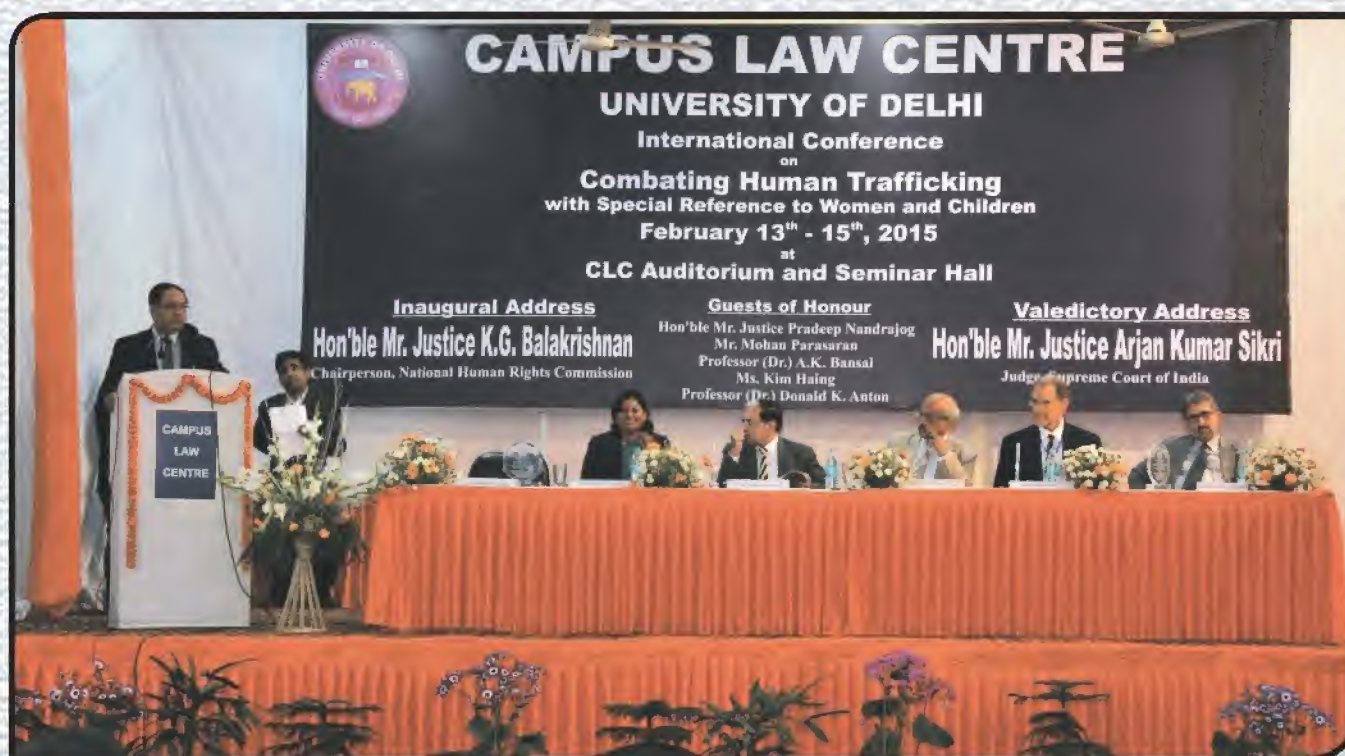


Felicitation of Prof. Donald K. Anton

Valedictory Session



HMJ Pradeep Nandrajog addressing the audience



Mr. Mohan Parasaran addressing the audience

Valedictory Session



Prof. Donald K. Anton addressing the audience



Audience

Valedictory Session

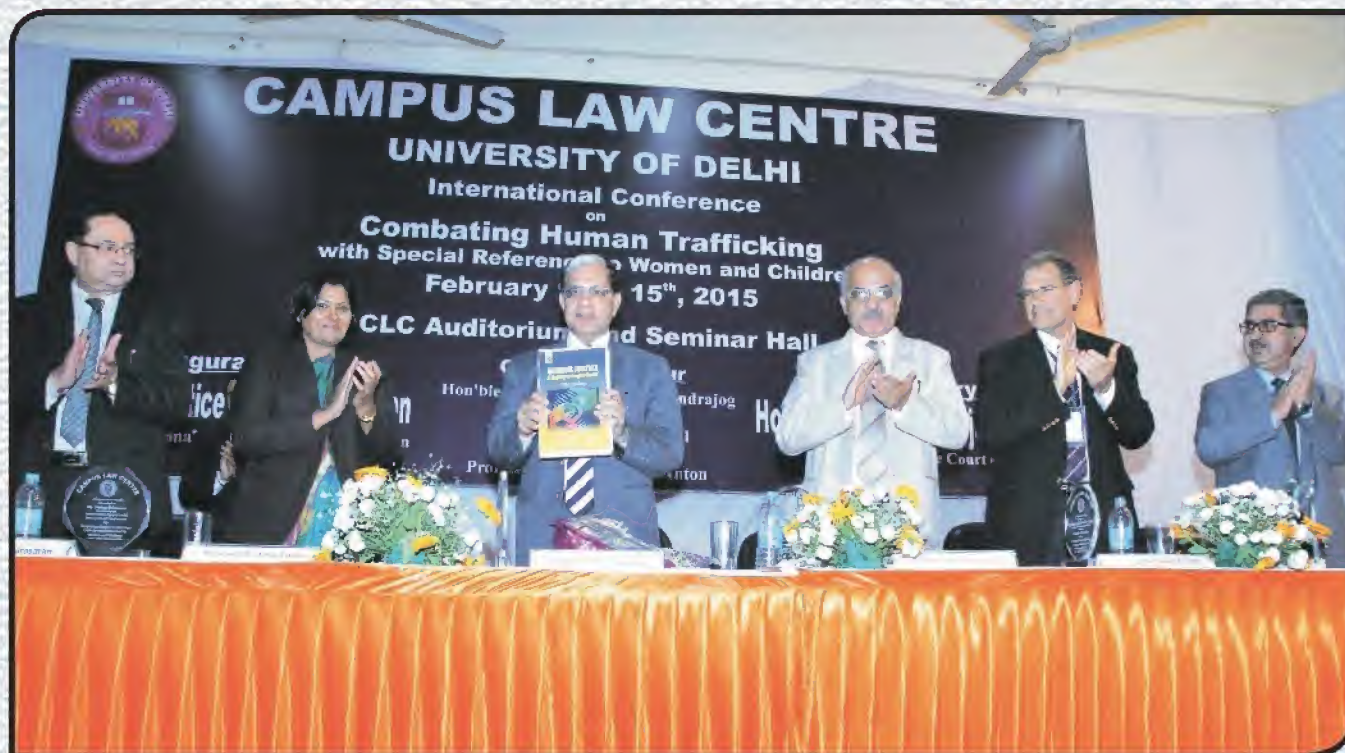


Mr. Mohan Parasaran addressing the audience



Audience

Valedictory Session



Release of book by HMJ A.K. Sikri on Gender Justice edited by Prof. Usha Tandon



Audience

Valedictory Session



Distribution of certificates by HMJ A.K. Sikri



Valedictory Session



Distribution of certificates by HMJ A.K. Sikri



Valedictory Session



Distribution of certificate by HMJ A.K. Sikri



Distribution of certificate by HMJ Pradeep Nandrajog

Valedictory Session



HMJ A.K. Sikri addressing the audience



HMJ Pradeep Nandrajog distributing the certificate

International Conference
on
Combating Human Trafficking
with Special Reference to Women and Children
February 13th - 15th, 2015

at
CLC Auditorium and Seminar Hall

Chief Guest
Special Address

Justice K.G. Balakrishnan

Human Rights Commission

Guests of Honour

Hon'ble Mr. Justice Deep Nandra

Mr. Justice S. Narayan

Prof. Justice B. V. Subramanian

Prof. Justice K. Anand

Va

ble Mr. i

Judge.



Concluding Address
Justice Arjan Kumar Sikri
Supreme Court of India



HMJ A.K. Sikri (centre) with distinguished guests



HMJ K.G. Balakrishnan



HMJ A.K. Sikri



Mr. Mohan Parasaran



Prof. (Dr.) Usha Tandon



CLC Faculty and Students with the Host - Mr. Mohan Parasaran (in the centre) at Hotel Taj Palace